Australian Government

Making a difference

40 years of the Commonwealth Ombudsman

COMMONWEALTH OMBUDSMAN

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40 YEARS
Making a difference

The Office of the Commonwealth Ombudsman celebrates its 40th anniversary in 2017.

Part of the 'new administrative law' reforms of the 1970s and early 1980s, the Ombudsman was established to provide an avenue for citizens to complain about the administrative actions of officials and to have their complaints investigated.

This book describes the early days of the office under the leadership of Australia's first Ombudsman, Professor Jack Richardson AO, and charts its progress over the following four decades.

It tells the story of the 'new kid on the block' becoming an accepted and integral part of the architecture of government.

It also tells a story about change.

As public administration and the expectations of citizens evolve, so must the Ombudsman.

Challenges still on the far horizon when Professor Richardson was Ombudsman, like digital service delivery, automated decision making and outsourced program delivery, are front and centre of the Ombudsman's work today.

But the core values set from the very beginning of the office – independence, integrity, accessibility and professionalism – remain the same and will continue to guide the office into its fifth decade.

On behalf of Commonwealth Ombudsmen past and present, I would like to thank the staff of the office over the past 40 years whose leadership, dedication and enthusiasm have ensured that the office has and is always making a difference.

I would also like to thank Carmel Meiklejohn, whose research and writing have so enlivened the office's history on the pages of this book, and the many people who gave their time and provided information during its preparation.

The Office of the Commonwealth Ombudsman is proud and excited to celebrate its 40th anniversary this year.

We welcome the opportunity to reflect on our achievements and prepare for the challenges ahead.

Richard Glenn
Acting Ombudsman
April 2017

NEW ADMINISTRATIVE LAW

Not a standalone piece of legislation, the *Ombudsman Act 1976* was part of sweeping changes to administrative law in Australia in the 1970s and early 1980s. Keeping its close traditional ties with the British legal system, Australia was a long way behind European countries in setting up an Ombudsman and other bodies to monitor government administration.

Burgeoning debate in legal and academic circles from the early 1960s gradually influenced public opinion and made governments receptive to the need for reform. Among the commentators were notable legal academics at the Australian National University, including Geoffrey Sawer (who first published a monograph entitled *Ombudsman* in 1964), Harry Whitmore, Lesley Zines and Jack Richardson. Justice Rae Else-Mitchell, then a member of the Supreme Court of New South Wales, stirred the debate with his paper, 'The Place of the Administrative Tribunal in 1965', presented to the Third Commonwealth and Empire Law Conference in Sydney in August 1965. It was becoming more widely acknowledged that ordinary Australians needed more realistic, transparent and affordable ways to question the administrative actions or decisions of government. Existing avenues of redress through tribunals and courts were slow, formalistic, difficult to access and expensive.

Keen to play a constructive role in initiating law reform, (Sir) Anthony Mason served as the Commonwealth Solicitor-General in the late 1960s. His previous experience as a barrister having instilled in him what he described as 'an abiding sense of the incoherence of administrative law',[1] he suggested to Attorney-General (Sir) Nigel Bowen that an official examination of administrative decision-making and review was needed. Amenable to both the idea, and the suggested composition of a panel of experts to undertake the task, the Attorney-General established the Commonwealth Administrative Review Committee (the Kerr Committee).

Between 1968 and 1971, the government set up three committees of review which were to have far reaching influence on Australian administrative law. First and formative, the Kerr Committee reported in August 1971. The Bland and Ellicott Committees submitted their reports to a new Labor government in 1973. Bipartisan support for the reforms recommended by all three committees saw the Parliament pass three Acts which formed the basis of a new administrative law system. The *Administrative Appeals Tribunal Act 1975* created both the Administrative Appeals Tribunal and the Administrative Review Council. To deal with grievances of individual citizens, the Office of the Commonwealth Ombudsman was established by the *Ombudsman Act 1976*. Reform and codification of the system of judicial review of administrative action were provided for under the *Administrative Decisions (Judicial Review) Act 1977*. Concurrent reforms to federal courts and tribunals, and passage of later legislation such as the *Freedom of Information Act 1982* (FOI Act), the *Archives Act 1983* and the *Privacy Act 1988* were part of the package of new laws.

Designed to balance the provision of justice to the individual with efficient administration, the reforms were comprehensive and complex. Putting them into effect required some adjustment on the part of government agencies and their constituents. Jurisdiction

of the new bodies and areas of overlap needed to be understood and any issues addressed collaboratively. The Australian public had to be educated about their new rights. Reform did not stop with the new laws. Their development and passage had been achieved through the vision and commitment of numerous policy makers and parliamentarians. Implementation of such radical change was a longer process, and succeeded only because of the dedication and untiring efforts of those involved in founding and nurturing the new institutions. Outstanding leadership in the formative years from the inaugural Ombudsman, Professor Jack Richardson, and Justice (later Sir Gerard) Brennan, the first President of both the Administrative Appeals Tribunal and the Administrative Review Council, was central to this success. Also crucial was the consistent support given to the new regime by Malcolm Fraser, who was Prime Minister from 1975 to 1983. Due in no small part to the efforts of all its founders, the new administrative law generally stood the test of time.

[1]*Mason, Sir Anthony, 'Administrative Law Reform: The Vision and the Reality', Australian Journal of Administrative Law 8 (4) August 2001*

Making history

Reporting on the first year of operation of the *Ombudsman Act 1976*, Jack Richardson recognised that he and his new office were part of an exceptional period of Australian legal history. Noting that more reforms were still to come, he wrote:

> *It is impossible to assess the long-term effects of these sweeping administrative reforms but the total impact on the conduct of the functions of executive government will certainly be great.*
>
> *It is immediately obvious that an unbroken era of federal decision-making shielded from public scrutiny beginning in 1901 has ended. Protective mechanisms operating within the Australian Public Service from its inception, making public accountability unnecessary, will wither as the officers performing tasks of executive government are expected to be answerable to the public just as on many occasions members of the public are expected to answer to the administration. Government should become far less privileged.*
>
> *Ombudsman Jack Richardson, First Annual Report 1978 pp.4-5*

Substantial reform

Closely involved in the policy development of new administrative law as Solicitor-General at the beginning of the decade, Robert Ellicott QC was Attorney-General from December 1975 to September 1977. In that capacity, he introduced both the Administrative Decisions (Judicial Review) (ADJR) and the Ombudsman Bills into the Parliament. Explaining a provision in the ADJR Bill that would require decision makers to give to those adversely affected reasons for decisions and statements of findings on material questions of fact, he declared: 'No longer will it be possible for the decision-maker to hide behind silence'. Introducing the Ombudsman Bill in June 1976, the Attorney-General commented on the functions and powers of the Ombudsman, and their relationship to those of other administrative law bodies:

> *The essential function of an Ombudsman is to investigate complaints made to him about administrative actions of officials. For this purpose he is given power to question officials and other persons and to inspect documents and premises. If he finds evidence of what might broadly be called maladministration, he reports accordingly to the Department or other agency concerned and to the responsible Minister. He will usually make recommendations for remedial action. If his recommendations are not accepted, or other appropriate remedial action not taken, the Ombudsman can inform the Prime Minister and [make] a report on the matter to the Parliament.*
>
> *The report to the Parliament, with the attendant publicity and the possibility of Parliamentary censure of the Department or agency concerned, is the ultimate sanction possessed by the Ombudsman. He cannot compel the Department or other agency to put his recommendations into effect. Nor does he have power to overrule a decision and substitute his own view of what ought to have been done.*
>
> *Thus the function of the Ombudsman is quite different to that of an appeal tribunal, such as the Administrative Appeals Tribunal, the Taxation Boards of Review and the various Repatriation Appeals tribunals. These bodies are empowered to hear appeals from decisions and, where they think fit, to overrule these decisions and substitute their own.*
>
> *They are limited to considering decisions, and are not ordinarily concerned with other administrative actions. They are, moreover, confined to specified classes of matters, whereas the Ombudsman has power to investigate the whole field of administrative activity of government.*
>
> *To prevent overlap between the Ombudsman and the other processes of review of administrative actions, such as appeal tribunals and the courts, it is customary to provide that the Ombudsman is excluded from investigating a matter if another remedy is provided by law, except where there are special circumstances that justify his doing so.*
>
> *Hansard, House of Representatives 4 June 1976 p.3068*

1968

On 29 October 1968, the Commonwealth Attorney-General, (Sir) Nigel Bowen, established the Commonwealth Administrative Review Committee. Chaired by Justice (later Sir John) Kerr of the Commonwealth Industrial Court, its other members were: (Sir) Anthony Mason (initially as Commonwealth Solicitor-General and later as a Judge of Appeal of the Supreme Court of New South Wales); Robert Ellicott QC (after his appointment as Solicitor-General on 15 May 1969) and Professor Harry Whitmore, Dean of the Faculty of Law at the Australian National University (ANU); with Geoffrey Halliday as secretary.

1971

Tasked with examining administrative decision making and review in Australia, the Kerr Committee was set up as a committee of legal experts – it was not intended to have evidence-gathering powers. It reported in August 1971.
As part of a comprehensive system of administrative law and judicial review – including an administrative review council, an administrative appeals tribunal and codified judicial review before a specialist court – the Committee recommended the appointment of a 'general counsel for grievances'. Located separately from the Parliament, this officer would be authorised not only to investigate complaints relating to administration within the Australian Public Service but to proceed, on behalf of complainants, for review of matters before the proposed administrative court and tribunals.

After the Kerr Committee reported, the McMahon Government instigated two further reviews of particular aspects of administrative law reform.
A committee chaired by Sir Henry Bland (previously Secretary to the Department of Defence) was set up to examine administrative discretions under Commonwealth statutes and regulations. Its membership comprised Professor Whitmore and Peter Bailey (then Deputy Secretary to the Department of Prime Minster and Cabinet) with Ernst Willheim as secretary.
To conduct a review of prerogative writ procedures available in Australian courts, the Attorney-General, Senator Ivor Greenwood, asked Deputy Secretary Frank Mahony and Assistant Deputy Crown Solicitor Len McAuley, in his department, to prepare a report in association with Solicitor-General Ellicott.

1973

Reporting to a new Labor Government in 1973, both the Bland and Ellicott committees recommended the establishment of a traditional ombudsman's office.
Making the recommendation in an interim report in January and confirming its views in October 1973, the Bland Committee suggested a less extensive role and more restricted powers for the ombudsman than those proposed for a general counsel for grievances. To avoid the possibility of separate ombudsmen coming to different conclusions when considering similar administrative decisions, the Bland Committee considered that there should be only one Commonwealth Ombudsman for Australia and its territories.
The Ellicott Committee's report of 29 May 1973 recommended adoption of the judicial review proposals put forward by the Kerr Committee – including the appointment of a general counsel for grievances or an ombudsman.

OMBUDSMAN

Taking pride in the history of their role, Commonwealth Ombudsmen regularly, sometimes quite comprehensively, recorded aspects of it in their annual reports and various anniversary publications. The modern meaning for this particular model of alternative dispute resolution came from Sweden, where a Parliamentary Ombudsman was instituted in 1809, to safeguard the rights of citizens by establishing a supervisory agency independent of the executive branch. However, the function itself could lay claim to far greater antiquity.

Roles similar to the Ombudsman were carried out in ancient governments. In Rome, in a role developed from around 500 BC, elected officials known as Tribunes represented the interests of any citizen with a complaint against government, protecting them against victimisation and pursuing remedies where warranted. Roman Censors, who existed as elected officials between 443 and 22 BC, not only received and pursued complaints from the public but examined performance, censuring delinquent officials when they found evidence of maladministration. Beginning in the fifth and fourth centuries BC, Greek city states empowered officials to pursue and remedy complaints by citizens against administrators.

During the brief reign of the totalitarian Ch'in Dynasty in China in the third century BC, Emperor Shih Huang Ti built the Great Wall to protect himself from his external enemies. For internal protection against officials who neglected their duties, he created a Censorate. Under the Han dynasty which followed, the Censorate became an abundantly staffed, highly organised, active and powerful body which (scrutinising legislation and administration) had authority to investigate and correct every level of government including the Emperor and senior ministers. As long as Chinese government was based on Confucian political ideology (second century BC – nineteenth century AD), with its teaching that it was essential to admonish those in power, this system prevailed. During some periods, there was an array of different offices with censorial ombudsman functions – sometimes with duplication to ensure effectiveness.[2]

Ombudsman roles were well-established in Scandinavia and Europe before being instituted by countries linked with the British Westminster system of government. The Swedish Riksdag created the office of *Justitie-ombudsman* in 1809. The first of many other countries to do so, Finland created an ombudsman in 1919, more than a century later, with Denmark following in 1955. New Zealand became the first English speaking country to appoint an ombudsman in 1962. The office of the United Kingdom Ombudsman was established in 1967, with ombudsmen offices set up in some Canadian provinces and American states around the same time. More rapidly becoming an essential accountability mechanism in democratic societies, the concept of having an independent person able to investigate and resolve disputes between citizens and government subsequently spread around the world.

Western Australia was the first Australian state to appoint a Parliamentary Commissioner for Administrative Investigations, in

1971. The South Australian Parliament appointed an Ombudsman in 1972, and Victoria followed in 1973. Queensland legislation in 1974 provided for the appointment of a Parliamentary Commissioner for Administrative Investigations. The New South Wales Ombudsman Act was also passed in 1974. The Commonwealth Ombudsman was the sixth Ombudsman to be instituted in Australia, on 1 July 1977. A Tasmanian Ombudsman was appointed in 1978. Following the transition to self-government in the Northern Territory (1978) and the Australian Capital Territory (1989), Ombudsmen were appointed in those territories.

[2]*Research on the ancient history of the Ombudsman was undertaken by the inaugural Commonwealth Ombudsman's son, Matthew Richardson, during his studies at ANU. He provided generous assistance in the preparation of this section.*

Ombudsman

An ombudsman is an official, usually (but not always) appointed by the government or parliament, who is charged with representing the interests of the public by investigating and addressing complaints reported by individual citizens.

www.ombudsman.gov.au/about/our-history

Before you ask...

In his annual report for 1988–89, Ombudsman Dennis Pearce published a copy of a letter he had written to the Secretary to the Department of Administrative Services (DAS). DAS had recently updated the Commonwealth *Style Manual*, including an entry asserting that the word 'ombudsman' was sexist. In his comprehensive and careful explanation, the Ombudsman pointed out that the word was not English, it was Swedish, which made the suffix 'man' irrelevant. Another difficulty was that the *Style Manual* was purporting to be able to change an official title designated by an Act of Parliament. Appreciative of the Secretary's subsequent assurance that the reference would be deleted from future editions of the *Style Manual*, the Ombudsman declared that there was already enough difficulty in familiarising the public with the word, without adopting meaningless or inaccurate variations, which also departed from international usage.

It was easier for the Ombudsman's office to disseminate the message once it developed its own website, and could display a prominent explanation:

> **The word *ombudsman* is not gender specific. Its specific meaning has since been adopted into English as well as other languages, and *ombudsmen* have been instituted by many other governments and organisations. The origin of the word is found in Old Norse and the word *umbuds man*, meaning representative. The first preserved use in Swedish is from 1552. It is also used in the other Scandinavian languages such as the Icelandic *umboðsmaður*, the Norwegian *ombudsman* and the Danish *ombudsmand*.**

One female Commonwealth Ombudsman, Philippa Smith (1993–98), was appointed in the first four decades of the office. Three women, Lindsay Shaw, Vivienne Thom and Alison Larkins, were appointed as long-term Acting Ombudsmen at different times.

In its anglicised form, the plural version 'ombudsmen' became widely-used and accepted.

12th Annual Report 1988–99 p.21
www.ombudsman.gov.au/about/our-history

Ombudsmania

A proliferation of bodies using the name 'Ombudsman', in other than its traditional and parliamentary context, provoked Ombudsman Alan Cameron to describe the situation as 'Ombudsmania' in his Annual Report for 1991–92. He cited discussion of ombudsman appointments in superannuation, the legal profession, the petroleum industry and even football. In ongoing debate about the wider use of the name, all the Commonwealth Ombudsmen were agreed that the essential characteristics of independence and impartiality must be present. The use of the term, sometimes underpinned by legislation, spread in the private sector, with industry ombudsmen set up to handle complaints about such things as telecommunications, banking and financial services, energy and water, private health insurance, public transport and postal services.

On 5 February 2010, the Executive Committee of the Australia and New Zealand Ombudsman Association (ANZOA) endorsed a policy statement on the use of the name (which was legislated in New Zealand, but not in Australia.) The policy statement prescribed six essential criteria for describing a body as an Ombudsman. These related to independence, clearly defined jurisdiction, particular powers, accessibility, procedural fairness and accountability.

15th Annual Report 1991–92 p.4
www.anzoa.com.au/about-ombudsmen.html

What's in a name?

The inaugural Commonwealth Ombudsman, Jack Richardson, was confronted with some less official and less complimentary names during his term in office. Delivering an ANU Convocation address in October 1978, he commented on some of the terms used by either mischievous or misinformed correspondents:

'All-bids man' – from Australia Post
'Ambushman' – an appellation certain Departments thought was appropriate
'Omnibusman' – one he rather liked
'Ombustian' – the derivatives for which he was not certain of
'Odd bods man' – which he felt fitted comfortably with what he did
'Enquirer of troubles' – the address on an envelope
'Omdudsman' – which he had no real objection to.

National Library of Australia, Special Collections, audio recording of an address given by Professor Jack Richardson to the ANU Convocation, 18 October 1978. (NLA Oral TRC 631)

1975

Before the federal election in December 1972, Prime Minister Gough Whitlam had promised that a Labor government would appoint an ombudsman to act as the guardian of the people and investigate complaints of unjust treatment by government departments and agencies. An Ombudsman Bill, duly introduced by Attorney-General Keppel Enderby on 6 March 1975, lapsed upon the double dissolution of the two Houses of Parliament in November that year.

1976

Following another change of government in December 1975, a similar Ombudsman Bill was introduced into the House of Representatives by Liberal Attorney-General Robert Ellicott on 4 June 1976. Passed in December, the *Ombudsman Act 1976* established the Office of the Commonwealth Ombudsman to investigate complaints from the public about Australian Government agencies and to undertake own motion investigations.

Commencing on 1 July 1976, the *Administrative Appeals Tribunal Act* 1975 established both a new tribunal (the AAT) to undertake merit review of selected administrative decisions, and an Administrative Review Council (ARC) to monitor, review and advise the Government on administrative law reform.

1977

Looking to judicial as well as administrative reform, successive governments had considered establishing a new superior court. Drafting of legislation to create a court was first approved in 1962 but, while there was bi-partisan support for the concept, conflicting views as to how it should be executed resulted in prolonged and ardent debate. A Bill introduced by Attorney-General Bowen in 1969 lapsed, as did those put forward by Attorney-General Lionel Murphy during 1974 and 1975. Introduced by Attorney-General Ellicott, enabling legislation was finally passed as the *Federal Court of Australia Act 1976*. The new Court, which began operating on 1 February 1977, had jurisdiction covering most civil matters arising under Australian federal law, including bankruptcy.

On 17 March 1977 Prime Minister Malcolm Fraser announced the appointment of the first Commonwealth Ombudsman, Professor Jack Richardson. His initial term of office was seven years, from the date the Ombudsman Act came into effect.

INDEPENDENCE AND IMPARTIALITY

During his second reading speech on the Ombudsman Bill in the House of Representatives on 4 June 1976, Attorney-General Robert Ellicott QC described the Bill as one of the most important measures with which Parliament would deal that year. Commenting that a vital element of the new legislation was that it would provide access to an impartial investigator for citizens with a legitimate complaint about official action, he stressed that 'the strength of the ombudsman's work lies in the independence and impartiality of his investigation'.

Hansard, House of Representatives 4 June 1976 p.3068

APPOINTING OMBUDSMEN

During the debate on the Ombudsman Bill in August 1976, it was suggested that the Parliament was looking for an Ombudsman who would be not only accessible, but able to recommend the rectification of injustices. Independent of government and impartial, the Ombudsman should nonetheless have a thorough understanding of government. While it was noted that a quite remarkable person was needed to fill the role, it was agreed that there was nevertheless every expectation that someone with all these qualities would be found.

In the four decades following passage of the *Ombudsman Act 1976* there were nine Commonwealth Ombudsmen appointed. Chosen specifically to fulfil the requirements of the time in which they served, each was remarkable in their own way. Bringing to the role their own talents and expectations, each put an individual stamp on the role – evidenced through goals pursued, philosophies espoused in annual reports and public presentations, relationships built with various stakeholders, work practices implemented, staff recruited and frequent restructuring of the office.

So that the Ombudsman would 'be subject to constant scrutiny'[3], the Act provided for an appointed term of no more than seven years. Only two Ombudsmen served for that long. Jack Richardson had his initial seven-year term extended until he reached the then mandatory retiring age of 65 in 1985, achieving a record time of eight years and two months as Ombudsman. John McMillan, the only Ombudsman to be reappointed for a second five-year term, ultimately held office for seven years and three months during the first decade of the twenty-first century. Other Ombudsmen served terms ranging from fourteen months to five years.

Most Commonwealth Ombudsmen were lawyers. Three – Jack Richardson, Dennis Pearce and John McMillan – were Professors at the Australian National University at the time they were appointed. Notable educators and communicators, all had a mix of public and private sector experience to add to their expertise in administrative law. Coming to the role with foundational capability gained at the ANU Law School, Jack Richardson was (certain senior bureaucrats and some less-than-grateful complainants aside) generally agreed to be an ideal choice as inaugural Ombudsman.

Renowned as a clever lawyer with an exceptionally analytical mind, Geoff Kolts was First Parliamentary Counsel before his appointment as the second Ombudsman. It fell to Alan Cameron, previously the national partner of Blake Dawson Waldron and equipped with wide-ranging legal, academic and commercial experience, to lead the Ombudsman's office through a major parliamentary review of its operations in 1991. Philippa Smith and Allan Asher both came to the role with impressive backgrounds in consumer advocacy, well-prepared to reach out to the Ombudsman's most disadvantaged constituents. The one career public servant appointed as Ombudsman, Ron McLeod was previously Inspector-General of Intelligence and Security (IGIS), and had a long record of achievement in industrial relations and defence. Appointed as the ninth Ombudsman, Colin Neave was eminently qualified. He had a wealth of senior management experience in the law, consumer affairs and government administration, with complaint resolution skills finally honed from sixteen years in industry ombudsman roles in the financial sector.

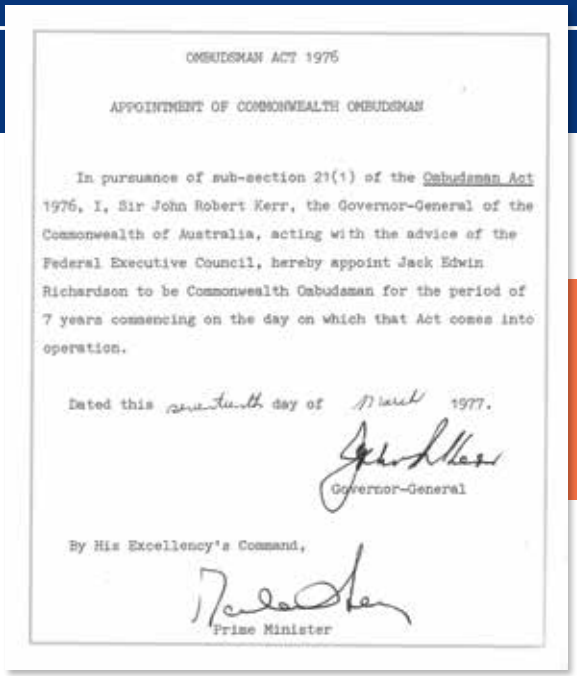
[3]*Attorney-General, Robert Ellicott QC, during debate on the Ombudsman Bill, House of Representatives, 24 August 1976.*

House of Representatives, Thursday 17 March 1977

MR MALCOLM FRASER (WANNON), VICTORIA—Prime Minister – I am pleased to inform the House that the Government has appointed Professor J. E. Richardson, Robert Garran Professor of Law at the Australian National University, to the position of Commonwealth Ombudsman. Professor Richardson's appointment will be for a period of 7 years and he will take up his appointment as soon as arrangements can be made for his release from the University. The Government is very pleased that Professor Richardson has agreed to accept the position of Commonwealth Ombudsman. Professor Richardson is a distinguished academic of high Australian and international standing who will bring to this office the qualities and experience which are necessary to perform this challenging role. …

The establishment of the office is directed towards ensuring that departments and authorities are responsible, adaptive and sensitive to the needs of citizens. …

I am sure that everyone will welcome Professor Richardson's appointment as the first holder of the office of Commonwealth Ombudsman. My Government believes that Professor Richardson has the qualities, experience and capacity to inaugurate successfully and establish the office of Commonwealth Ombudsman with great distinction.



OMBUDSMAN ACT 1976

APPOINTMENT OF COMMONWEALTH OMBUDSMAN

In pursuance of sub-section 21(1) of the Ombudsman Act 1976, I, Sir John Robert Kerr, the Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby appoint Jack Edwin Richardson to be Commonwealth Ombudsman for the period of 7 years commencing on the day on which that Act comes into operation.

Dated this seventeenth day of March 1977.

Governor-General

By His Excellency's Command,

Prime Minister

Instrument appointing Professor Jack Richardson as the first Commonwealth Ombudsman under the *Ombudsman Act 1976*.

Qualities needed of an Ombudsman

Recommending the establishment of an Ombudsman's office, during their examination of administrative discretions under Commonwealth statutes and regulations, the Bland Committee considered the kind of person who would be needed to fill the role:

> *68. Finding the right man for the Ombudsman post could well prove even more difficult than drawing the legislation constituting his office and detailing his powers and functions. He must not see himself as the scourge of departments, a super administrator or a super censor, nor attempt to usurp the role of Parliament. Nor imagine himself the donee of some God given capabilities to reach a more `right' conclusion than that under review. He has no role permitting him to take over the responsibilities of departments; he must never forget that accountability, particularly financial accountability, remains with them and their Ministers nor that political accountability rests with Ministers. While he has a role akin to that of an auditor, he must be on the lookout for means of removing grievances through improved procedures. He will rarely be in a position to halt departmental processes: he will generally deal with matters ex post facto. While his dedication to the protection of the rights of the citizen and the attainment by eligible persons of their entitlements under the law must be indubitable, he can be no policy maker or social reformer in his own cast. He must have great humility and be devoid of prejudices and convictions: his role is to draw attention to defects in process and questionable decisions, not to make fresh decisions however much he may prefer alternatives.*
>
> *69. Prima facie, an Ombudsman, who must necessarily be a generalist and cannot be provided with professional and technical resources matching those in a relevant agency, could hardly be well placed to challenge a specialist in the area of his own speciality. … This does not mean that the Ombudsman does not have any role where specialists have been involved. His role is fundamentally to satisfy himself about proper process and that proper consideration has been given to all relevant considerations. Nor, for that matter, do we convey that a decision involving professional and like judgments could under no circumstances whatever be questioned.*
>
> *70. In the context we see for a Commonwealth Ombudsman, he need not be a practising lawyer or for that matter have been trained in the law, yet such training could be a decided advantage. …*
>
> *Interim Report of the Committee on Administrative Discretions (Bland Committee Interim Report), Parliamentary Paper No 53 of 1973, pp.14-15*

JACK EDWIN RICHARDSON AO

1920–2011

Ombudsman 1 July 1977 – 23 September 1985

Born in Geelong, Victoria on 23 September 1920 – birth registered as a day later. Excelled academically at Camperdown Public School and Geelong College. Graduated University of Melbourne, BA c1940, LLB, awarded Supreme Court Prize 1942. Enlisted Melbourne University Rifles after Japan entered Second World War in 1942. Subsequently reserved to study law, then deployed in Departments of War Organisation of Industry and Post–War Reconstruction. Admitted to practise, Victoria 1948. To Public Service Board Canberra 1949. Attorney-General's Department 1950–60, including Legal Secretary, parliamentary Constitution Review Committee 1956–59, Chief Assistant (Executive) 1960. Carnegie Grant, Institute of Air and Space Law, McGill University, Montreal, Canada 1952–53. Awarded LLM McGill and Melbourne. Member Legal Committee Civil Aviation Organisation 1952–57. Professor Australian National University Law School 1961–77 – Robert Garran chair from 1962, Dean 1961–66 and 1968–70. Visiting Professor McGill University 1966–67. President Australasian Universities Law Schools Association 1965–66, chaired Committee on Legal Education 1968–77. Member Judicial Act Review Committee 1972–74. New South Wales Bar 1974–75. Member Executive Committee International Law Association (Australia) 1973–83; ACT Consumer Affairs Council 1976–77.

Inaugural Commonwealth Ombudsman 1977–85 – first Defence Force Ombudsman 1983–85. Appointed Officer of the Order of Australia (AO) January 1984 for services to law and public service. Retired 23 September 1985. Emeritus Professor ANU Law 1977–2011, Visiting Fellow 1986–90 and 1992–2011. Practising barrister and legal consultant to government 1985–89. President Australian Institute of Administrative Law 1990. Foundation Ombudsman Western Samoa 1990–92. Member Consultative Group on Constitutional Change, 'Resolving Deadlocks' 2004. Joint owner horse and cattle stud, Lord Ben Farm, Cobbitty, NSW. Numerous publications throughout career on topics including Australian federalism and constitutional law, trade practices, air and space law and the Ombudsman. Last book completed just before his death at age 90 on 13 June 2011 at Camden NSW. Funeral at St Andrew's Presbyterian Church, Forrest. Buried at Gungahlin cemetery, ACT.

Photograph courtesy of the Richardson family.

OMBUDSMAN ANNUAL REPORTS

Required under the *Ombudsman Act 1976* to report to the Parliament at the end of every financial year, successive Ombudsmen put their annual reports to good use from the very first one. The reports became a rich source of history, documenting the development of the office, as Ombudsmen made the most of this opportunity to convey various messages to the Parliament and the public.

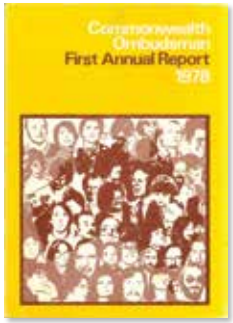
Comprehensive in their coverage, the reports aimed to inform the Parliament and to educate all those likely to have dealings with the Ombudsman. They detailed the role and operations of the office, discussing working arrangements, complaint-handling methods, publicity programs, outreach activities and liaison with Australian and international counterparts. Explanations relating to the Ombudsman's constantly expanding jurisdiction and functions, and about work done in specialist Ombudsman roles, were given. Descriptions of multitudinous specific investigations were provided. Reports were made on the outcome of own motion investigations and other activities aimed at influencing systemic improvement of public sector administration. Copies of submissions to parliamentary inquiries and of presentations made in numerous forums were included. Thoughtful forewords provided the Ombudsman's reflections on past activities, and outlined their vision for the coming years. They also gave insights into the writer's philosophy, and often strong opinions, on various aspects of their role and functions. With most of the reports adopting a personal tone, variations in approach were evident with each change of Ombudsman.

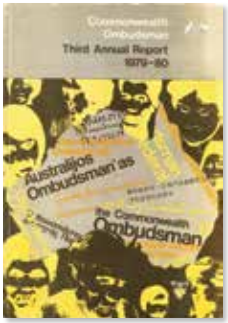
The format and content of annual reports evolved in line with increasingly complex reporting requirements – for the inclusion of information such as audited financial statements, performance reporting against corporate plans and freedom of information statements. Some constructive feedback on reporting procedures was given by the Senate Standing Committee on Constitutional and Legal Affairs which showed an interest in the Ombudsman's work in the mid 1980s. Advances in technology enhanced the appearance of the reports, which became increasingly sophisticated. Notably unadorned during some periods of severe financial restraint, the reports were used to highlight some significant anniversaries in the history of the office, with colourful and informative feature pages scattered throughout. Artistic covers symbolising aspects of the relationship between the Ombudsman, the government and the people, helpfully explained on each occasion, added colour and interest to some annual reports during John McMillan's term.

Recurring themes in the reports included a focus on the history and meaning of the Ombudsman's role, on the need to be consulted during development of significant legislation affecting that role, statements at intervals that parliamentarians were not using the content of the reports as effectively as they might, and the often fraught issue of resources. Ombudsman Jack Richardson noted that his fourth annual report was of necessity shorter – not because there was less work to report but because the workload was so great the office had been unable to divert the resources necessary to produce a detailed account of it. Perhaps the most cooperative effort in producing an annual report occurred in 2009–10 during an exceptionally fluid stage in the top structure of the office. The letter of transmittal was signed by former acting Ombudsman, Vivienne Thom; the foreword was written by the then acting, but soon to retire, Ombudsman, Ron Brent; while the former Ombudsman, John McMillan was granted an introductory 'last word'.

‘… the performance of my office is to be gauged by anyone reading the Annual Reports to Parliament which reveal not only our successes but also the blemishes’

Ombudsman Jack Richardson, Eighth Annual Report 1984–85






Commonwealth
Ombudsman
Fourth Annual Report
1980-81
COMPLAINTS
YEAR 1
5,313
YEAR 2
7,980
YEAR 3
11,101
YEAR 4
14,169

1977

The *Ombudsman Act 1976* commenced on 1 July 1977. Located on the first floor of the Prudential Building, on the corner of University Avenue and London Circuit in Canberra, the Office of the Commonwealth Ombudsman had just five staff members when it opened.

Two deputies to assist the Ombudsman were provided for under the Act. The first Commonwealth Deputy Ombudsmen were appointed for five-year terms: Kevin Crotty from 5 September 1977 and Don Emerton from 3 April 1978.

Enabled by the *Administrative Decisions (Judicial Review) Act 1977*, reforms codifying the system for judicial review of administrative action by the Federal Court of Australia, including a requirement for reasons to be given on request, were assented to on 16 June 1977. Abnormally protracted delays in settling the schedules for the Act which set out decisions not subject to review, or for which reasons did not have to be given, meant that the legislation was not proclaimed to come into effect until 1 October 1980.

1978

In April 1978, Commonwealth Ombudsman offices were opened in Melbourne (on the tenth floor of the Sun Alliance Building at 408 Collins Street) and in Sydney (on the ninth level of the Aetna Life Tower on the corner of Bathurst and Elizabeth Streets). Media publicity given to their opening produced an immediate flow of enquiries and complaints to the two offices.

1979

A 1979 amendment to the *Audit Act 1901* provided specifically for act of grace (*ex gratia*) payments. This meant that, where a clear connection could be made against established criteria, it was open to the Ombudsman to recommend financial compensation for administration deemed to be defective to the extent of causing financial detriment to a complainant.

COMPLAINTS A–Z

Dealing with complaints arising locally and nationally across all portfolios of government, the Ombudsman gained a unique perspective of the problems faced by ordinary people every day. Over 40 years, annual reports included accounts of thousands of cases, detailing issues encountered and resolutions reached. Constant publication of own motion and other investigation reports provided further insight into more systemic issues involving defective administrative practices or procedures.

The Ombudsman's discretion not to investigate could be invoked for numerous specified reasons – including when complaints were considered to be frivolous, vexatious, not made in good faith, made at large about official actions, or better dealt with by using an alternative remedy or in another forum. The magnitude of a complaint was not a determining factor in itself. Even where a complaint did not raise a serious or substantial issue, it was still acknowledged as potentially being very important to the complainant.

To be able to handle the vast range of matters coming under its jurisdiction at various times in its history, the Ombudsman's office needed to recruit staff with diverse, often specialist, skills and talents. Their everyday work might involve them in consideration of a disparate array of subjects, large or small. Just some examples of those dealt with in the first 40 years were:

A: ABC broadcasts, Abstudy, accessing information, accounts, agriculture, aircraft crashes or noise, airports, allowances, assault, audit fees, Austudy, authorship, aviation

B: bankruptcy, Business Activity Statements (BAS), billing practices, boats, body searches, building, cab-charge vouchers

C: call centres, capsicum spray, carers, character assessment, cheques, child support, citizenship, civil rights, client focus, commerce, compensation, computer systems, construction, contractors, corruption, counter-terrorism, court orders, criminal activity, custody, customs

D: debt recovery, deceased estates, defence, detention centres, disability, disaster relief, discharges, disclosure of information, discrimination, divorce, domestic violence, drinking on duty, drugs, duty of care

E: education, elections, electricity, electronic lodgement, emergencies, employment, engineering, entitlements, environmental protection, equine influenza, *ex gratia* payments

F: failure to lodge documents, family allowances, family reunification, fees, films, fishing, forestry, fraud, freedom of information (FOI)

G: geological surveys, goats, Goods and Services Tax (GST)

H: harassment, health insurance, HECS debt, homelessness, hospitals, housing, human rights

I: identity, immigration, immunisation, import controls, insurance, interpreters, invalids, investment, islands

J: judgements, juveniles

K: *kawa*, key performance indicators, kinship

L: land rights, legal opinions, licences, lighthouses, literacy, litigation, local government, location of letterboxes, lost files, lottery tickets

M: mail, mass marketing, maternity leave, medical benefits, medical treatment, mental health, migrants, military personnel, misleading advice, money-orders, move-on powers

N: native flora and fauna, natural disasters, nuisance calls, nursing homes.

O: offensive correspondence, ouster clauses, outsourcing, overpayments, overseas study

P: parking, passports, PAYG assessment, penalty policies, pensions, pharmaceutical benefits, police, postal services, prisons, privacy, procedural fairness, promotions, protocol, psychiatric patients, purchasing, purses

Q: quality assurance, quarantine

R: rebates, recognition of prior service, recordkeeping, redress of grievances, redundancy, refugees, refunds, rehabilitation, retirement benefits, retrospective decisions

S: sales tax, search warrants, sexual harassment, ships, SIDS, sole parents, speculative building, students, social security, superannuation

T: tartan trousers, taxation, teddy bears, telecommunications, telegrams, telephone interception, television, tenders, termination payments, terrorism, traffic, training, triple zero calls, trawling

U: underpayment, unemployment, unlawful arrest, user pays

V: veterans, video filming, the Vietnam War, vineyards, visas

W: warrants, war service records, war widows, water, whistleblowers, wildlife, wine, witness protection, workers' compensation, written communication

X: x-ray machines, xenophobia

Y: youth allowances, youth shelters

Z: zero-tolerance.

ORGANISATIONAL OVERLOAD

By the end of the first year of operation, the Ombudsman had 32 staff members employed in offices in Canberra, Melbourne and Sydney. Reporting on challenges attracting staff with suitable skills and experience, Jack Richardson noted that increasing staffing from the 'totally insufficient' five at the start had proved to be a complex and time-consuming process. Gratified by the exemplary performance of the staff he did have, but concerned about the backlog of work, he had asked the Public Service Board to undertake an extensive review of the office's establishment. He added that: 'with hindsight it may have been better to have heeded the Bland Committee warning against overloading the new institution in the early stages before assembling the necessary supporting staff'.

First Annual Report 1978, p.46

1978

Rapidly becoming one of the busiest in the world, the Office of the Commonwealth Ombudsman received written complaints from 958 complainants in its first three months – including 170 already lodged when the office opened. It recorded the receipt of 2656 complaints in its first year. Around the same number of oral complaints and enquiries were dealt with, but not 'reduced to writing'. Presenting his first annual report, the Ombudsman noted that it was clear from incoming complaints that there were too many instances of members of the public not being given the opportunity to seek an explanation of action directly from the agency concerned.

While the Ombudsman reported in 1977–78 that 'a handful of departments and authorities' had questioned his jurisdiction, he noted that all his recommendations had been accepted. He had not had to use his formal powers under the Ombudsman Act. There had been no need to take alternative types of remedial action (s.15), to report to the Prime Minister (s.16) or to use the ultimate sanction (s.17) of reporting to the Parliament when an agency refused to accept a report or recommendation.

On 20 October 1978, the Commonwealth Ombudsman opened an office in Perth. Maintaining a separate identity, it shared facilities with the state Parliamentary Commissioner for Administrative Investigations, on the 18th floor of the City Centre Tower at 44 St George's Terrace.

Ombudsman offices were opened in Adelaide and Brisbane during 1978–79. In Queensland, facilities were shared with the state Commissioner for Administrative Investigations on the 21st floor of Watkins Place at 288 Edward Street. At first located at 33 King William Street, near the South Australian Ombudsman, the Adelaide office moved to a similar shared arrangement on the tenth floor of the Guardian Royal Exchange Building at 50 Grenfell Street in 1980–81.

1979

During 1978–79 the Ombudsman instigated outreach activities. Public response to opportunities for direct personal contact with the office was positive. Included in the first program of regional visits were: Townsville, Cairns, Armidale, Newcastle, Wollongong, Ballarat, Geelong, Port Augusta, Peterborough, Bunbury, Port Hedland, Broome, Derby and Alice Springs. Special efforts were made to contact ethnic groups in the community. Widely distributed pamphlets explaining the role of the Ombudsman and offering assistance were translated into 21 languages. In subsequent years the Ombudsman's office expanded its range of outreach activities, especially targeting regional, indigenous and migrant populations.

REACHING THE PUBLIC

All Commonwealth Ombudsmen believed that engaging in outreach activities was a significant part of their role. The public needed to be educated at the start about the new administrative law and their consequent right to complain, and always to be made aware of the Ombudsman's presence and the services available through the office. Before the advent of information technology (IT), and later developments in social media, creating situations which facilitated direct personal interaction was especially important. It was also challenging, with constituent communities scattered across a vast country.

Media attention given to the appointment of a new Ombudsman generally stimulated public awareness, and a rise in complaint numbers. Usually operating on a tight budget, Ombudsmen took advantage of opportunities offered to present a public face on television, or a recognised voice on radio broadcasts. Speeches were made, and views contributed in journals and newspaper columns. Paying for expensive newspaper or television advertising only when a situation warranted it, thrifty Ombudsmen looked for more 'homespun' solutions. Jack Richardson set the benchmark with his economical but long-remembered 'Bamboozled by the Bureaucracy' advertisement, used on milk cartons in Canberra in 1978 and later on billboards elsewhere. Various agencies were persuaded to publicise the role of the Ombudsman in their client literature.

From 1978–79, investigation officers engaged directly with the public through outreach visits. Groups most likely to need to complain about difficulties with government administration were targeted. Community support organisations and parliamentary electorate offices were approached for assistance with identifying and reaching people. Over the decades, outreach programs covered people in rural and regional areas, in non-English speaking and indigenous communities, and those who were disabled or disadvantaged in any way. Additional specialist roles conferred on the Commonwealth Ombudsman meant engagement with constituents such as service personnel, international students, youth groups and people held in immigration detention.

Pamphlets describing the activities of the office and how and where complaints could be made were designed, translated into numerous languages and widely distributed. In the early years, postcards advertising a pending visit by staff of the Ombudsman's office were distributed to every letterbox in town. Announcements were made on local and ethnic radio stations. Seminars and complaint clinics were run. Ombudsman staff attended meetings, conducted training and briefings, participated at conferences and in research and other projects, and set up booths at expos and trade shows to get their message out. Increasingly creative use of information and communication technology included development of a comprehensive website, e-bulletins, fact sheets and a presence on various forms of social media. Surveys conducted from time to time revealed a slow but definite improvement in raising the level of awareness in the community about the existence and role of the Ombudsman.

Tracey Whetnall (with Ombudsman Allan Asher) was invited to speak to office staff during National Reconciliation Week in 2011, about engagement between indigenous communities and the public sector.

On outreach stalls, and speaking at conferences and seminars throughout Australia, staff distributed brochures and promotional items branded with the Ombudsman logo as constant reminders of the office.

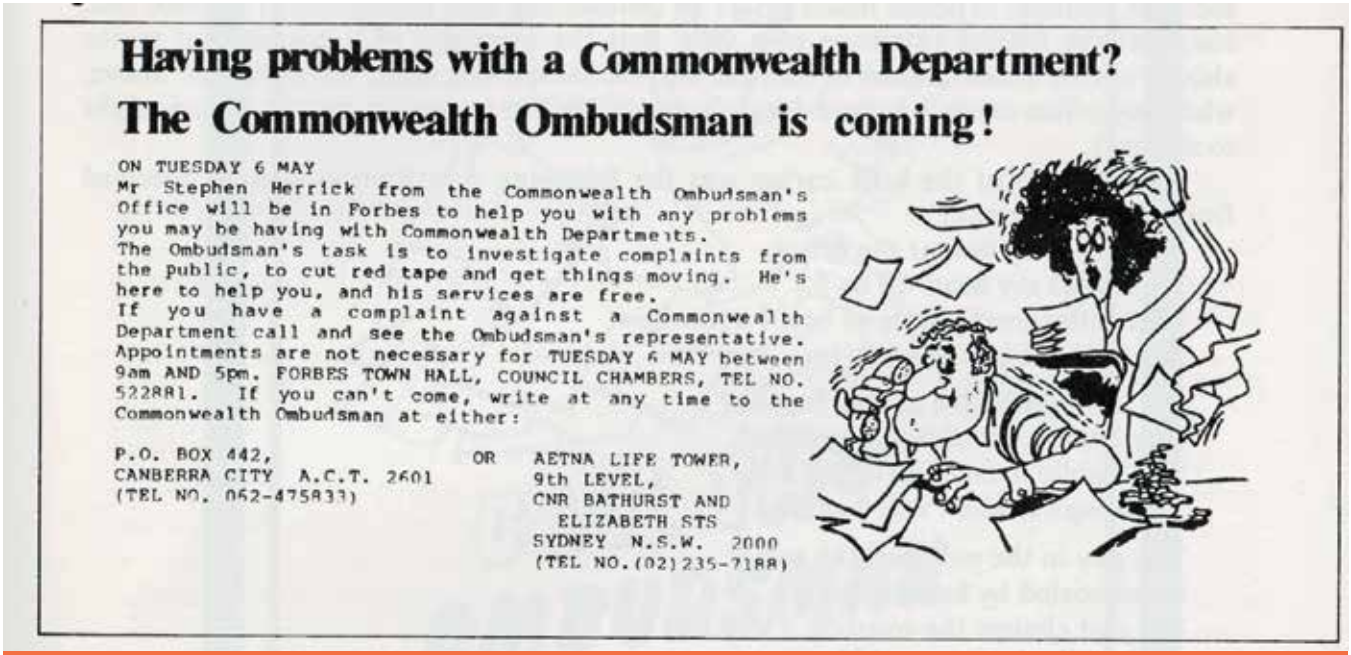
Early designs for outreach posters and billboards.

1979

One consequence of the opening of state offices was a significant increase in the number of oral complaints made to the Ombudsman in 1978–79. An appendix to the Ombudsman's second annual report described the handling of around 5000 oral complaints, which was almost double the number of written complaints that year. Official statistics had not been kept, since it was envisaged originally that formal complaints would be in writing. With the cooperation of government agencies, the Ombudsman began conducting fewer formal inquiries into complaints, saving time and resources to enable faster resolution of simpler matters. As far as possible, complaints were dealt with over the telephone, without opening files.

In accordance with an undertaking given to the Senate Standing Committee on Regulations and Ordinances by Prime Minister Malcolm Fraser in October 1977, the Administrative Review Council (ARC) completed a review of the Ombudsman's jurisdiction in 1979. The Ombudsman's office participated in the working party assisting the Council with the review. As an ex officio member of the ARC, the Ombudsman put forward suggestions for amendments to the *Ombudsman Act 1976*. Among those based on his experience in administering the legislation was a request for explicit support for the methods developed to handle oral complaints

Arrangements were made for the Ombudsman to have a presence in Darwin and Hobart. To begin with, one part-time Commonwealth staff member shared amenities with the Northern Territory Ombudsman at Shop 10, Palmerston Arcade in Cavenagh Street. In 1983–84 an arrangement was made with the Northern Territory government for its Ombudsman and staff to represent the Commonwealth Ombudsman in the Northern Territory, through offices in both Darwin and Alice Springs. No Commonwealth staff member was allocated to Hobart. After the state Ombudsman's office was established, an agency agreement was also reached with the Tasmanian government, and was put in place from 1980.



Having problems with a Commonwealth Department?

The Commonwealth Ombudsman is coming!

ON TUESDAY 6 MAY
Mr Stephen Herrick from the Commonwealth Ombudsman's Office will be in Forbes to help you with any problems you may be having with Commonwealth Departments.
The Ombudsman's task is to investigate complaints from the public, to cut red tape and get things moving. He's here to help you, and his services are free.
If you have a complaint against a Commonwealth Department call and see the Ombudsman's representative. Appointments are not necessary for TUESDAY 6 MAY between 9am AND 5pm. FORBES TOWN HALL, COUNCIL CHAMBERS, TEL NO. 522881. If you can't come, write at any time to the Commonwealth Ombudsman at either:

P.O. BOX 442,
CANBERRA CITY A.C.T. 2601
(TEL NO. 062-475833)

OR AETNA LIFE TOWER,
9th LEVEL,
CNR BATHURST AND
ELIZABETH STS
SYDNEY N.S.W. 2000
(TEL NO.(02)235-7188)

Cheaper than newspaper advertising. Postcards like these were delivered by Australia Post to every household in the town, in advance of a regional visit by staff of the Ombudsman's office. The staff also accepted speaking engagements and made media appearances designed to promote their services.

Invoking the power for the first time, the Ombudsman made his first section 16 report to the Prime Minister when the Director-General of Social Services declined to act on a recommendation relating to the denial of unemployment benefits for school leavers. Subsequent payment of the recommended amounts, following a High Court ruling, avoided the need for a special report to Parliament under section 17 of the Ombudsman Act.

Continuing to undertake, at the lowest cost possible, a proactive program aimed at making the Ombudsman more widely known in and available to the community, Jack Richardson opined in his third annual report that the existence of an office such as his depended 'almost as much on public awareness of it as on the Act of Parliament which created it.'
He mentioned that at least one effort at publicising the office – comparatively cheaply on the back of Canberra milk cartons – had aroused some concern in public service quarters.

STONE – COLD RESPONSE

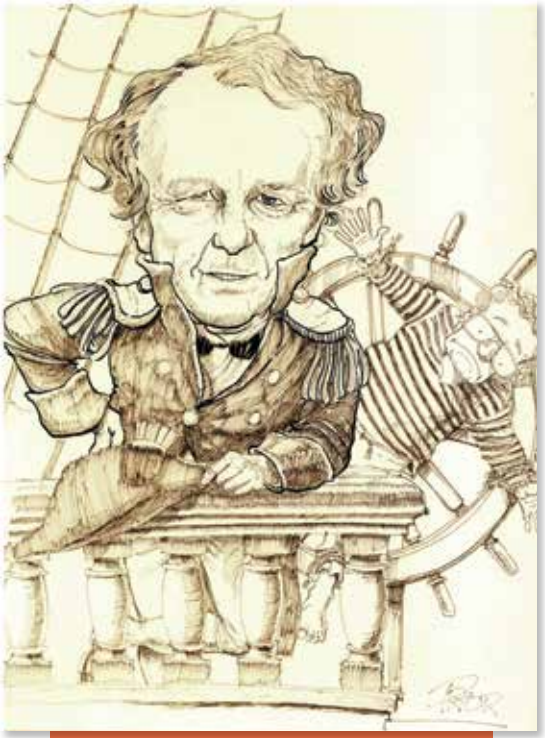
Not everybody was happy to have an Ombudsman. At the end of the first year of operation Ombudsman Jack Richardson reported on a gratifying level of cooperation from the 'great majority' of departments and authorities. Nevertheless, the attitude of a few had placed 'an unwarranted strain' on the resources of the office, already stretched to the limit in its first formative year. He cited some concerted opposition and some challenges to his jurisdiction, including through agencies seeking legal advice from the Attorney-General's Department. Making allowances for it being the first year, he refrained 'from being more specific'.

Reporting at the end of his second year on predominantly cooperative and harmonious relationships with government agencies, the Ombudsman noted that he had not yet needed to invoke his formal powers. He commented, however, that it was 'too much to expect a unanimous view as to the value of the Ombudsman'. Less circumspect on this occasion, he published a letter from Treasury Secretary John Stone relating to a lengthy complaint investigation which involved that department. In part, the letter read:

> *You are incorrect … in interpreting my letter of 8 August as an "expression of interest in (your) methods of operation". My letter expresses no such interest. What it did express was my astonishment that it should have taken your Office several months … to arrive at the blindingly obvious conclusion that Mr A's complaints were not worth the paper they were written on. Implicit in that was the view that if this case is typical of the approach to its responsibilities taken by your Office, it is little wonder that its cost to the tax payer is expanding in such Parkinsonian fashion as it is. Of course, if the case be not typical, other questions suggest themselves.*

The Ombudsman added: 'I choose to believe that the views of the Secretary are exceptional'.

Second Annual Report 1979, pp.4-5.



Cartoon by former *Canberra Times* cartoonist, Geoff Pryor, depicting Ombudsman Jack Richardson with John Stone (Secretary to the Department of the Treasury 1979–84) tied to the wheel.

Reproduced courtesy of the artist, Geoff Pryor.

BAMBOOZLED BY THE BUREAUCRACY

Ombudsman Jack Richardson was very clear about his role in publicising the services of his office. Outreach and publicity programs were quickly put in place after 1 July 1977. Operating along lines followed by all his successors, he believed that public education was an essential function of the office. People the Ombudsman was intended to serve had a right to know what the office could do for them, and how to go about making a complaint.

Challenged by the national nature and geographical spread of the office, preceding later advances in technology, the Ombudsman was also continually constrained by having limited resources to cope with his ever expanding workload. Always looking for cheaper and innovative solutions to make the Ombudsman's role known to the public, in 1980 he discovered that it was possible to conduct a small and comparatively inexpensive advertising campaign using Canberra Milk's one-litre cartons. Around 750 000 milk cartons displaying a cartoon with the caption 'Bamboozled by the Bureaucracy? … Call the Ombudsman' were duly distributed in May and June of that year.

Their enjoyment of breakfast said to be severely disrupted as a result, both the Chairman of the Public Service Board and the Secretary to the Treasury reproached the Ombudsman for his light-hearted approach. Charged with oversight of the Commonwealth public service in its most traditional sense, they exercised meticulous control over its structures and resources. Concerned that the workload associated with administrative law reforms would impact on the efficient running of the public service, and exacerbate existing resourcing constraints, they were renowned for their antipathy to the new measures, including the Ombudsman.

Unperturbed by the criticism, Jack Richardson was unrepentant, and typically articulate in his response. Enjoying a positive working relationship with Prime Minister Malcolm Fraser, and confident of his support, the Ombudsman was also comfortable about his entitlement to independent action in the way he went about his work.

Another perspective

Reassuring those upset by the milk carton advertisement that it was not intended to portray public servants as lazy or inefficient, Jack Richardson was never averse to reporting both sides of a story. He published a poem he had received from a 'public servant' following the milk carton advertisement:

I work like a slave at the office,
I don't lift my head till it's 5,
I serve the good people as best I know how,
My family and I just survive.

But now, do I have to take insults?
Bamboozled, confused, mystified,
The Public is asked to abuse me,
As though it was I who had lied.

The guy in the picture's the public,
Bamboozled by bureaucracy,
But just change the wording a wee tiny bit,
And really, he just could be me.

I used to drink milk by the gallon,
I thought it was good for the skin,
But I can't bear to look at the carton –
I'll just have to start drinking gin.

Third Annual Report 1979–80 p.4

Believing he would be derelict in his duty if he did not inform the public of the Ombudsman's role, and of their right to complain, Jack Richardson took advantage of a convenient opportunity to advertise his services on Canberra Milk cartons in 1980. Reflecting, 20 years later, on the exception certain mandarins in the bureaucracy had taken to the advertisement, he made the point that the consumers of milk in the ACT had responded most positively.

FIVE-YEAR REVIEW

In 1982, Ombudsman Jack Richardson took a longer than usual perspective when preparing his annual report. Reflecting on experiences during the first five years of operation, he detailed the operational improvements which had been put in place, and the changes which had expanded the Ombudsman's jurisdiction. Suggesting some amendments to the *Ombudsman Act 1976* in the light of these experiences, he was especially concerned that the handling of the deluge of oral complaints be put onto a legislative basis.

Stating that the office was dealing with 'an onerous backlog of work', he reported on formidable resourcing difficulties and on the 'torturous process' required to replace experienced staff. Declaring that staffing arrangements required a 'drastic revision', he had asked the Public Service Board to assist in undertaking a management review of complaint-handling methods.

Undeniable benefits

Noting the increasing complexity of complaints which were handled in written form, and his office's preference for examining original records rather than seeking answers to questions, Ombudsman Jack Richardson reported that some agencies had made progress with self-analysis. Paying more attention to the requirements of administrative review, they had devised procedures to ensure proper investigation of complaints before they reached an external review body:

> *As my office's resources have expanded and we achieve greater expertise in dealing with complaints we have increasingly relied on examination of original records rather than simply seeking answers to questions. It has been evident as we peruse records created since the inception of the administrative law changes of recent years that officials at all levels are increasingly conscious of the need to apply proper principles to their administrative actions, particularly where these directly affect individuals. It is not unusual to come across file documents created before complaints to the Ombudsman indicating awareness that particular actions could be reviewed if complaint were made. Decisions seem more frequently to take into account the possible need to account for them to some outside body and it is my belief that this increase in thoughtfulness has led to better decision making which in turn leads to resource savings. The costs of administrative law are fairly readily identified while the benefits, such as this, are less tangible. In my opinion, however, they are undeniable and should feature more prominently in discussions of the value of the measures of recent years.*
>
> *Fifth Annual Report 1981–82 pp.3-4*

Specialist resistance

Commenting on official attitudes to the Ombudsman's role, Jack Richardson took heart from an increasing tendency for agencies to inform people of any right to appeal they might have, when presenting them with adverse advice. With agencies increasingly directly involved in aspects of peoples' daily lives, he believed it was important that the public should be better informed about these rights.

Noting instances where familiarity had improved responsiveness, and a high level of cooperation from agencies had expedited the work of his office, the Ombudsman still had concerns. Cases of 'official intransigence' had consumed a disproportionate amount of resources, and delayed resolution of complaints. Conscious of the burdens placed on agencies by requests from his office, he explained that delays in finalising investigations, which ultimately affected complainants, were prevalent in some agencies using avoidance tactics:

> *The creation of specialist areas of departments to deal with administrative review in some cases appears to have led to the promotion of expertise in defeating the intention of the Ombudsman Act. There are departments with such areas from which the first reaction on receipt of a letter of inquiry from my office is to examine the complaint to see whether, in the opinion of the officers concerned, there is any reason why I should not investigate. This is frequently followed by a letter informing me of these opinions. Fortunately, unless I have made a mistake and an action is outside my jurisdiction by operation of the Ombudsman Act, it is for me to determine whether I should investigate and, since I have already considered the matter independently, I am not usually receptive to officials' suggestions that I withdraw.*

Fifth Annual Report 1981–82 pp.3-4

Supporting parliamentarians

When the idea of an Ombudsman was first mooted there were those who said the introduction of such an official would supplant the role of the Member for Parliament and undermine the traditional answerability of Ministers for actions of their departments. … Experience has shown that far from eroding such traditional systems, the institution of Ombudsman has reinforced and supported their functions. It is… significant that on more than one occasion government Ministers, as private members, have chosen to lodge complaints with my office on behalf of constituents. Similarly, it is noteworthy that in a number of cases Ministers have, as a result of investigations by my office of official actions, reviewed decisions in the light of information not previously known to them. On the other hand I quite often receive complaints under the Ombudsman Act where it is apparent to me that resort to the political process might well have a better chance of achieving a result the complainant would like. The position of the Ombudsman relative to other complaint-handling mechanisms is still evolving and the long-term effects of each on the other are difficult to predict.

Fifth Annual Report 1981–82 p.5

1980

At the Second International Conference of Ombudsmen held in Jerusalem in October 1980, Jack Richardson presented a paper entitled 'The Ombudsman Among the State Authorities'. Beginning a tradition of active participation by the Commonwealth Ombudsman in international forums, he joined ombudsmen from New Zealand and Fiji on the Pacific regional committee which was formed to help plan for the next conference in 1984.

1981

The *Complaints (Australian Federal Police) Act 1981* established a specialised Internal Investigation Division of the Australian Federal Police (AFP) force, which had commenced operations in October 1979. Largely implementing recommendations made by the Australian Law Reform Commission in 1978, the new laws gave the Commonwealth Ombudsman a substantial supervisory and residual investigative role to investigate complaints from members of the public about the conduct of the Police.

1982

From 25–29 October 1982, the Commonwealth Ombudsman hosted the Sixth Conference of Australasian and Pacific Ombudsmen, held in Canberra and Thredbo. Attended by ombudsman from all six states and the Northern Territory, New Zealand, Fiji and the Solomon Islands, the conference provided an opportunity for participants to discuss problems of mutual interest and exchange experiences.

1982

A key element of the administrative law system was the introduction of the *Freedom of Information Act 1982* (FOI Act) which came into effect on 1 December 1982. The Act allowed people to make complaints to the Ombudsman about agencies' handling of their FOI requests. Also subject to the FOI legislation as a government agency, the Ombudsman reported on both FOI requests and the handling of FOI-related complaints in subsequent annual reports. Neither aspect had a major impact on the office's workload until a later Federal Court decision substantially altered the rights of a person to obtain access to complaint files. Amendments to the FOI Act in 1983 conferred significant new responsibilities on the Ombudsman. Given the power to represent people seeking review of adverse FOI decisions in the Administrative Appeals Tribunal, but no resources to enable him to carry out this role, the Ombudsman described the resultant impact of the FOI legislation on his office as 'substantial and unexpected in its dimensions'. The power to appear as counsel was removed by a further amendment to the FOI Act in 1991.

1983

Ombudsman legislation was once again caught up in a change of government, in March 1983. An amendment Bill put forward by the Fraser government lapsed before the dissolution of Parliament, but was introduced and passed in substantially the same form by the incoming Hawke Labor government. *The Ombudsman Amendment Act 1983* came into effect on 13 October that year. Foreshadowed in earlier annual reports, changes in the Act were mostly those recommended by the Administrative Review Council, informed by the Ombudsman's experience in the early years of operation and directed at more expeditious and effective handling of complaints.

Among other things, the new provisions gave authority to the Ombudsman to release information in the public interest. They allowed the Ombudsman to make special reports to Parliament about investigations with wider implications, and the Ombudsman or an agency to apply to the Federal Court for a determination in disputes involving uncertainty about jurisdiction. The Ombudsman was provided with jurisdiction over the action of agencies in advising a Minister, and the activities of advisory bodies whose members were not public servants. Jurisdiction over the actions of agencies inside and outside Australia and in external territories was clarified. Confidentiality provisions for people in custody were improved.

Key to improving work practices and making the office more easily accessible to the public, were new provisions authorising the Ombudsman to exercise investigative powers on receipt of an oral complaint. Confirming established practice, the Act allowed complaints to be dealt with at an appropriate level of formality. Less onerous requirements for notifying intention to undertake an investigation were also put in place.

CONTRARY COMPLAINANTS

Work in the Ombudsman's office could sometimes be a thankless task. From the beginning, the office was set up to be accessible to all members of the community, with staff prepared to listen to an infinite variety of complaints. Acknowledging that it was to be expected that some complainants would be 'persistent, even emotional, in pursuing a personal grievance against government', Ombudsman Jack Richardson was concerned that dealing with some could be both inefficient and debilitating. While he claimed to take comfort from the substantial number of complainants who, although disappointed, had expressed appreciation for the Ombudsman's efforts, he noted that criticism of his office was by no means confined to officials. In 1980 he reported:

> *Some complainants believe that I have failed to do my job properly because they have not obtained the remedy they were seeking and a few have no hesitation in expressing their opinion in the most scathing terms. I have been called a whistle blower without puff and my office described as the Commonwealth paintshop (whitewashing everything).*

Third Annual Report 1979–80 p.1

Commenting at various times on complainants who were obsessive, overly persistent, rude or aggressive, in his seventh annual report the Ombudsman was forthright about demands for undue attention from a small group of complainants, and the considerable burdens these added to the work of the office:

> *Inevitably many complainants to any Ombudsman will be passionately convinced of the justice of their causes. Moreover the bracket of Commonwealth administrative law reforms creating new avenues of accountability … affords opportunities for complainants with causes they have sometimes maintained for years without success to seek further ventilation of their dissatisfaction. Our experience is that many such complainants adhere to convictions that they have been unjustly treated even though our investigations may find no objective support for their belief. … During the past year a number of complainants to my office have taken it into their heads that it is for them, and not me, to decide the outcome of investigations and the resources my office should devote to their causes. Unable to accept our conclusions, a small bunch has, over recent months, decided it will be satisfied with no less than the personal attention of myself or my Deputies and that any failure by us to revive an already finished investigation ad infinitum if the outcome is not in all respects to their liking justifies seeking press publicity adverse to my office, intrusion into our personal offices, gross verbal and even physical abuse of my staff and the disruption of other investigations at their whim. … it is essential that we seek ways of disposing both of chronic complaints and chronic complainants so that our investigatory resources are not diverted from the complaints of citizens of good faith to the appeasement of the neurotic whims of the disruptive.*

Seventh Annual Report 1983–84 p.11

Chronic complainants proved to be an ongoing issue. More than two decades later, Ombudsman John McMillan reported on participation in a joint project, initiated in 2006 by the New South Wales Ombudsman office, which was examining difficult and unreasonable conduct by complainants. Recognising this as a growing problem for Ombudsman and similar agencies, the project was developing and trialling management strategies for people exhibiting such behaviour. One objective was to develop special training courses and manuals for investigation staff.

29th Annual Report 2005–06 p.45

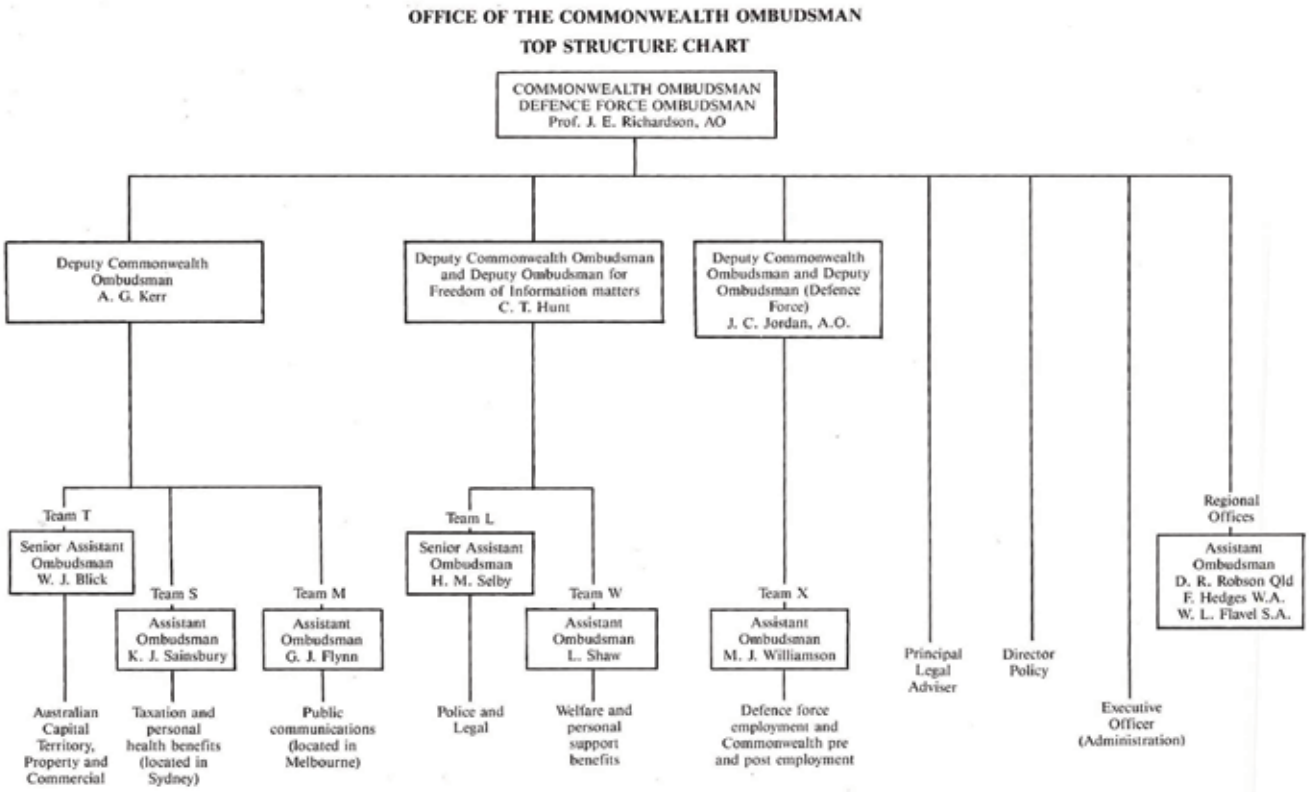
1983

From 5 December 1983, the Commonwealth Ombudsman was given the additional specialised role of Defence Force Ombudsman (DFO).

The DFO was first established as an interim office by the Minister for Defence on 2 January 1975. Legislation to give this organisation statutory investigation powers and responsibilities was not enacted at that time. An office headed first by a DFO-designate and then by a succession of Executive Directors was located in the ANZ Bank Building in the Canberra precinct of Manuka. In 1979–80 the government announced its intention to locate the DFO, as an identifiable and distinct jurisdiction, within the Commonwealth Ombudsman's office. While the DFO continued to operate on a non-legislative footing, the Ombudsman had taken responsibility for defence-related complaints he was able to handle within his jurisdiction, and sent matters to the DFO when he considered that it was the appropriate body to make inquiries. Provisions giving the Ombudsman jurisdiction over employment-related matters in the Australian Defence Force, were included in the *Ombudsman Amendment Act 1983*. The interim office ceased to function on Friday 2 December 1983, with the Ombudsman assuming the role of Defence Force Ombudsman on the following Monday.

A statutory office of Deputy Ombudsman, to be designated Deputy Ombudsman (Defence Force), was also created. Air Vice-Marshal JC (Sam) Jordan AO (ret) was the first appointed to the position, in January 1984.

Following a reorganisation of the Ombudsman's office in 1984–85, Jack Richardson was confident that this new structure, if adequately staffed, could meet the challenges of an ever-increasing workload.

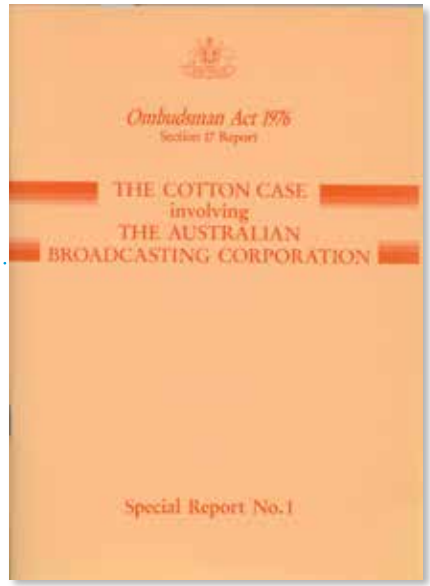


1984

In 1983–84, the total number of approaches (complaints and enquiries) to the Ombudsman's office exceeded 20 000 for the first time. The Ombudsman noted that the steady rise in workload was proportionately greater than population growth, reflecting both the widening scope of the Ombudsman's jurisdiction and a gratifying increase in public awareness of the office.

1985

The first ever report under section 17 of the *Ombudsman Act 1976* was tabled in 1985. It pertained to a long-running investigation in the 'Cotton Case', involving a complaint about a particular broadcast on the Australian Broadcasting Corporation (ABC) 'Nationwide' program in Western Australia. Disputing the Ombudsman's jurisdiction, the ABC had flatly rejected the recommendations made. Only two such parliamentary reports were made in the Ombudsman's first forty years. The second report, in 1986, related to the misreading of an Army tender document.



Having led the office through its first critical years, establishing its reputation for intellectual rigour and a robust approach to public administration, Jack Richardson retired as Commonwealth Ombudsman on 23 September 1985, his 65th birthday. In January the previous year, he had been appointed as an Officer of the Order of Australia (AO), for services to law and public service.

In his eighth and final annual report he warned that, despite its substantial successes, the office faced serious challenges in relation to its ever-increasing volume of work. No plateau of complaint numbers had been reached, overly stringent resourcing impacted on the office's ability to function effectively (especially in FOI matters) and there was an 'insidious threat' of conflict arising when the Department of Finance did not allow agencies to comply with the Ombudsman's recommendations for financial compensation ('act of grace' or ex *gratia* payments).

Sam Jordan acted as Ombudsman from 23 September 1985 until Geoffrey Kolts OBE QC took up his appointment as the second Commonwealth Ombudsman on 1 July 1986.

ACTS OF GRACE

In an article written for a law journal in 1984, Ombudsman Jack Richardson commented on the challenges inherent in recommending monetary remedies:

> *It can, of course, be no easy task to gouge payments out of a reluctant Treasury or Department of Finance, but, unlike a judge, an Ombudsman cannot rest after making his decisions. He has the further responsibility to use his best endeavours to obtain the kind of relief he considers appropriate to the case. It is not a task which can be left to others.*

The Ombudsman', Law Institute Journal, Vol 58 No 7, July 1984

GEOFFREY KOLTERMAN KOLTS OBE QC

Ombudsman 1 July 1986 – 31 October 1987

Born 12 March 1930 in Parramatta, New South Wales. Educated at Homebush Primary and Fort Street High Schools. Graduated LLB (First Class Hons) University of Sydney 1952. Admitted as solicitor Supreme Court of NSW 1953. Worked in private practice, then as a legal officer for the Australian Stevedoring Industry Board. Started in Courts and Titles Branch of the Attorney-General's Department in Canberra in 1955, before transferring to Advisings Division. Transferred to Parliamentary Drafting Division in 1957. Rising through drafting ranks, promoted to First Assistant Parliamentary Counsel then Second Parliamentary Counsel in 1972. Inaugural member of Administrative Review Council 1977–82. Made an officer of the Order of the British Empire (OBE) June 1978. Appointed First Parliamentary Counsel January 1981. Advocated traditional drafting style and professional standard of legislation which could not be intentionally misunderstood. Mentor to younger drafters and strong supporter of cooperation between legislative drafting offices. Instrumental in establishing the Commonwealth Association of Legislative Counsel in 1983 – served as its Secretary 1984–86. Initiated exchanges of drafters with other countries, and carried out an overseas study on extrinsic aids to statutory interpretation. Appointed Queen's Counsel (QC) for the Australian Capital Territory 1982, later for New South Wales. Drafted the voluminous Capital Gains Tax Bill 1986 in under three months, while managing the Office of Parliamentary Counsel. Contributed numerous journal articles, letters to newspapers, to a book of essays and an entry in the *Australian Dictionary of Biography*.

Appointed as the second Commonwealth Ombudsman 1 July 1986. Recommended a new approach to ensure that agencies responded appropriately to Ombudsman recommendations, particularly those relating to act of grace payments. Resigned October 1987. Solicitor at Freehill Hollingdale and Page until 1998, including four years as a partner. Continued drafting on contract for Australian and foreign governments. Returned to live in Sydney in 2006, in retirement.

Photograph courtesy of the Office of Parliamentary Counsel.

ADMINISTRATIVE REVIEW

At the first meeting of the Administrative Review Council (ARC) on 15 December 1976, Attorney-General Robert Ellicott told its inaugural members that their important role was to ensure that the new system of administrative law was as effective and significant in its protection of the citizen as it could be. Created under the *Administrative Appeals Tribunal Act 1975* the ARC was to continue the impetus of reform. Constantly reviewing decision-making processes, and monitoring the effectiveness of the legislation in operation, it could make recommendations to the Attorney-General on improvements that might be made to the system.

A comparatively small body, the Council attracted a high quality membership from the start. Among its ranks were talented people with diverse experience across the public and private sectors. Their common goal was to ensure that concepts of lawfulness, fairness and rationality prevailed in administrative decision-making policies and procedures.

From 1 July 1977 the Commonwealth Ombudsman was always *ex-officio* a member of the ARC. The office became an active contributor to the Council's research and publication on numerous topics, including the scope of judicial review, the structure of administrative tribunals, providing reasons for decisions, freedom of information legislation, and principles of good decision-making. Successive Ombudsmen participated in reviews involving the Ombudsman's jurisdiction and influenced ARC recommendations for ongoing reform of the *Ombudsman Act 1976*. ARC Report No.22 in 1985 specifically examined the relationship between the Ombudsman and the Administrative Appeals Tribunal.

Ombudsmen often commented on the value of the ARC in improving the legislative provisions and administrative procedures which governed their work, and administrative law more generally. Their fellow members recalled their individual contributions to the work of the ARC. Jack Richardson was remembered for providing 'significant colour', being unafraid to put his sharp wit, equally sharp tongue, humour and steely resolve to good effect in 'taking the battle right up to his opponents and critics'.[4] His successor, Geoff Kolts was an inaugural member of the council from 1977 to 1982 in his capacity as a parliamentary drafter, before his *ex officio* term as Ombudsman. Geoff was notable for applying 'his razor sharp and mathematical mind to the many problems of legislative drafting that came up' during those years.[5] Colin Neave served as President of the ARC from 2010 to 2012, before he was appointed Ombudsman. As Australian Information Commissioner from 2010 to 2015, after his term as Ombudsman, John McMillan continued to be an *ex officio* member of the Council.

The Administrative Review Council ceased to function as a separate advisory body in 2015. Its functions were merged with those of the Attorney-General's Department, as part of a package of 'Smaller Government' initiatives.

[4]*One-time President of the ARC, Wayne Martin QC, quoted by Michael Kirby in 'AAT – Back to the Future. The AAT – Twenty Years Forward: Return of the Native'. Speech at the Australian National University circa 1996.*
[5]*ibid.*

Members of the Administrative Review Council at a meeting on 6 February 1987.

STANDING L-R: *Ron Fraser (Principal Project Officer), Bronwyn McNaughton (Project Officer), Denis O'Brien (Director of Research), Julian Disney, the Hon. Xavier Connor, Justice Daryl Davies, Ombudsman Geoff Kolts, Justice Paul Munro, Philip Flood, Pat Brazil (Attorney-General's Department), William Impey, John Broome (Principal Private Secretary to the Attorney-General).*

SEATED L-R: *Ernest Tucker (outgoing Chairman), the Hon Lionel Bowen (Attorney-General), Dr Cheryl Saunders (incoming Chairman).*

Administrative Review Council, Eleventh Annual Report 1986–87, p.iv. Photograph courtesy of the Attorney-General's Department.

Tough tactics

Particular talents of the members of the Administrative Review Council (ARC) were not always used in conventional ways. Noting that the strength of the ARC lay in the backgrounds, experience and complementary personalities of its members, inaugural member Michael Kirby recalled situations where these had been deployed especially effectively. At the instigation of the President, (Sir) Gerard Brennan, a barrister experienced in the conduct of criminal trials, the Council adopted a tactic for dealing with some of the more powerful and voluble critics of the ARC, and of the administrative law package generally. It involved the use of a police technique of interrogation known as the 'old soft and hard'. As Michael Kirby recounted:

> *In the ARC this technique of soft and hard was used to good advantage upon the often hostile officials who attended to demand exemption for their agencies or particular decisions from the application of the AD(JR) Act and any other new fangled proposals for administrative transparency and accountability. …*
>
> *The first strategy in the ARC was to let loose the 'attack dogs' of the Council. These comprised Mr R.V. Gyles QC, who was a tough barrister, greatly skilled in cross examination. The other was Professor Jack Richardson. … [H]e often displayed a querulous and highly sceptical exterior in the face of every suggestion that exemption was merited or that the new administrative law had nothing to teach such experienced and worldly-wise public servants. [The officials] were unused to such blunt speaking. At the end of a somewhat savage treatment by the Gyles and Richardson 'hard cop' team, the two gentlest, and kindest, members of the ARC were sent into action. I refer, of course, to Sir Clarrie Harders and myself. Sir Clarrie was always searching for a median path. I myself was ever understanding and respectful (sometimes almost deferential) to such experienced officers of the Commonwealth …. But by the end of our questioning (as the 'good cops'), if [the officials] were not actually begging the ARC to bring their agencies under the new administrative law, they were at least reconciled to the likelihood that this was the fate that awaited them at the end of this distasteful journey*
>
> *The Development of the 'New' Administrative Law',*
> *Professor Jack Richardson Memorial Oration, ACT Law Society, Canberra, 12 September 2012.*

1987

One focus for Geoff Kolts during his short term as Ombudsman was on improving responsiveness to recommendations for act of grace payments. Picking up Jack Richardson's suggestion for a review of procedures, the new Ombudsman put his drafting background to good use. Not merely proposing special legislation to resolve the situation, he provided (with his annual report in 1986–87) a draft Bill to enable this to be given effect. Ultimately negotiated by Ombudsman Dennis Pearce, a new scheme which allowed agencies to pay compensation without Department of Finance approval was put in place on a trial basis at the end of 1988. Continually under review, this arrangement lasted until October 1995.

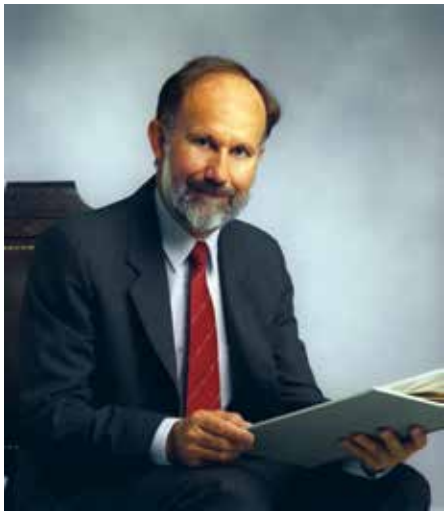
During 1987 there was a complete change to the top structure of the Ombudsman's office. Deputy Ombudsman Chris Hunt left when he was promoted to the Public Service Board in March 1987. He was replaced by Lindsay Shaw, the first female Deputy Ombudsman. Ending an era, Bill Blick, who had been appointed to the staff in 1976 to help prepare for the opening of the office, moved on to the Department of Prime Minister and Cabinet and was succeeded by Kevin Sainsbury. The inaugural Deputy Ombudsman (Defence Force), Sam Jordan, resigned in July 1987, and was replaced by Air Vice Marshall Roy Frost AO.

Geoff Kolts resigned as Ombudsman on 31 October 1987. Deputy Ombudsman Kevin Sainsbury acted as Ombudsman until the appointment of Professor Dennis Pearce as the third Commonwealth Ombudsman on 1 February 1988. Under a leave-of-absence arrangement with the ANU, Professor Pearce's appointment was for a three-year term.

DENNIS CHARLES PEARCE AO

Ombudsman 1 February 1988 – 31 January 1991

Born 3 March 1940 in Adelaide, South Australia. Attended various schools in South Australia and the Northern Territory, then Adelaide High School. Graduated LLB University of Adelaide 1961. Associate to Northern Territory Justice Martin Kriewaldt 1959–60; Justice Vivien Millhouse, Supreme Court of South Australia 1962. Articled clerk Reilly and Hermes Adelaide 1961. Admitted to practise in South Australia and in the High Court 1963, later in the Australian Capital Territory (1971) and New South Wales (1991). Joined Commonwealth Deputy Crown Solicitor's Office Adelaide 1963. Transferred to Parliamentary Drafting Division, Attorney-General's Department Canberra 1963. Drafting included Bills resulting in the introduction of decimal currency and the lifting of the public service marriage bar. LLM Australian National University 1968; and PhD 1979. ANU Law Faculty lecturer and management positions 1968–81. Appointed Professor 1981, Dean 1982–84. Prolific publications on legal subjects 1965–. Numerous community and committee activities including providing legal advice to parliamentary committees, and reviewing areas of administrative and intellectual property law. Chair Australian Law Schools Review 1986–87.



Appointed Ombudsman 1 February 1988, under three-year arrangement with ANU. Inaugural ACT Ombudsman from 1989. Proactively fostered cooperative relations with government agencies and raised public profile of the office. Returned to ANU as Dean of the Law School 1991–93. Acting Deputy Vice Chancellor ANU 1994. Retired February 1996 and appointed Emeritus Professor. Member Copyright Tribunal 1997–2010. Chairman Australian Press Council 1997–2000. First President ACT Racing Appeals Tribunal 2001–04. Inaugural Chair Defence Honours and Awards Appeals Tribunal 2008–11. Special Counsel in Canberra office of Phillips Fox and subsequently HWL Ebsworth undertaking reviews and providing legal advice to government agencies 1995–. ACT Government Campaign Advertising Independent Reviewer 2014–. Appointed Officer of the Order of Australia (AO) January 2003 for services to the law and contributions to public administration. Elected Fellow of Australian Academy of Law (FAAL) 2013.

Ombudsman collection. Heide Smith Photography.

1988

Links between the Ombudsman and the Parliament were enhanced by negotiation of a more structured relationship in the late 1980s. Having scrutinised the Ombudsman's 1984–85 Annual Report and provided constructive feedback on reporting procedures, the Senate Standing Committee on Constitutional and Legal Affairs assured the Ombudsman of its ongoing interest in and support for the office. In the absence of a special parliamentary committee designated under the legislation to deal with Ombudsman reports, Jack Richardson suggested that his special (s.17) reports would also fall within the ambit of interest of this Committee. After some subsequent agitation from Geoff Kolts, both special reports were referred to that Senate committee on 22 August 1986. Agreement was later reached that (unless otherwise ordered) any future special reports would be automatically referred to the Senate Standing Committee on Constitutional and Legal Affairs, which would also report to the Senate on the Ombudsman's annual reports. In 1987–88 the House of Representatives Legal and Constitutional Affairs Committee agreed to advise the House in relation to s.17 reports and any suggestions the Ombudsman might make for an investigation of specific matters of concern.

PUBLIC EDUCATION

Concerned that, after 11 years in operation there was still a great deal of misunderstanding of the role fulfilled by the Ombudsman, Professor Dennis Pearce was at pains to explain the functions and statutory obligations of the office as a background to his first annual report. Noting the office's independence, impartiality and capacity to have a beneficial impact on public administration, he believed it was critical for the Ombudsman to be consulted early in the piece when any significant change to jurisdiction was being considered.

Seeking media publicity as a means of informing people about his role, and re-establishing a promotional program for the office, the new Ombudsman defended his right to advertise his services to people who may have complaints, stating:

> *If it is legitimate for a government to publicise the benefits of a program that it has adopted, it is equally legitimate for the means to review decisions taken under that program to be publicised. Further, if an office is provided at taxpayer's expense to carry out a particular function, it is failing in its mandate if it does not bring its existence to the attention of those whom it was established to serve. …The office of Ombudsman is not so well-established in our society that members of the community know of its existence from an early age. … [which means that it] must make efforts to keep itself before the public eye.*

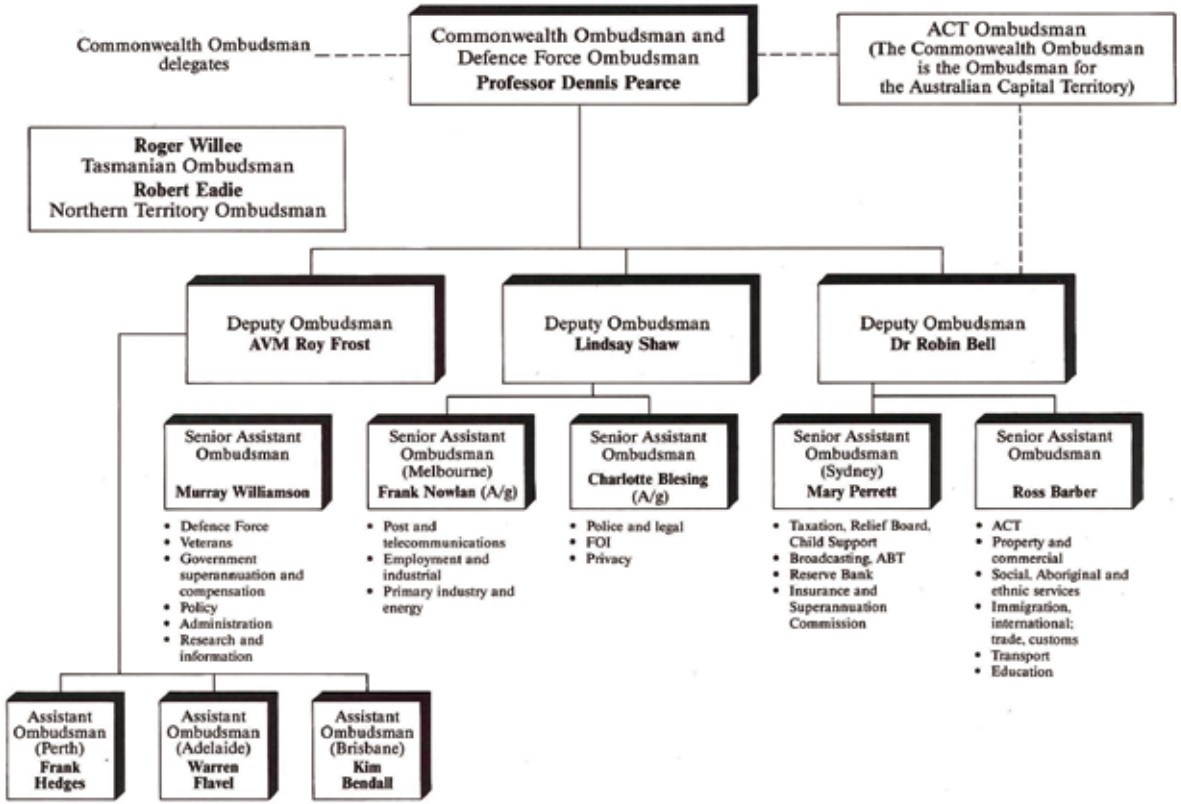
11th Annual Report, 1987–88 p.29

1988

The *Telecommunications (Interception) Amendment Act 1987* conferred a new and somewhat different function on the Ombudsman. From September 1988, the office became responsible for compliance auditing of and reporting on telephone interception records kept by law enforcement agencies. The function was later expanded to cover inspection of records relating to stored communications, controlled operations and the use of surveillance devices.

Ongoing implementation of administrative law reforms continued with the introduction of the *Privacy Act 1988*, which came into effect on 1 January 1989. Enacted in conformity with Australia's obligations under the International Covenant on Civil and Political Rights and as a member of the Organisation for Economic Cooperation and Development, the Act regulated the handling of personal information held by government agencies. Significantly affecting the manner in which personal information was collected, stored, used and disclosed, it also established the federal Privacy Commissioner as an independent privacy guardian. The Privacy Act was amended in 1990 to regulate the handling of personal credit information by credit reporting agencies and credit providers. Further major amendments passed in December 2000 applied privacy standards to the management of personal information by private sector organisations.

Organisation of the Office of the Commonwealth Ombudsman as at 30 June 1989. This structure reflected a major reorganisation as part of the Australian Public Service Office Structures Review during 1987–88, and the creation of the ACT Ombudsman, when self-government for the Australian Capital Territory was introduced in May 1989.



OTHER OMBUDSMEN

For some years after its establishment, the Commonwealth Ombudsman was the only federal ombudsman in the world, covering a territory far larger than most, and dealing with a comparatively larger volume of complaints. From the beginning, it formed cooperative relationships with other ombudsman offices in Australia and internationally, and engaged in regular reciprocal visits with counterparts in Australia and overseas.

When setting up his 'regional' offices, Ombudsman Jack Richardson negotiated close working relationships in every state. Sharing facilities with some state ombudsmen, for public convenience and to save costs, he secured office accommodation nearby in cities where this was not possible. For most of the first forty years an agency arrangement was in place with the Northern Territory and Tasmanian governments, with their ombudsmen performing functions on behalf of the Commonwealth Ombudsman. A similar funding arrangement was reached after self-government in the ACT, with the Commonwealth Ombudsman designated as the ACT Ombudsman.

Grateful for the assistance of both state and international ombudsmen who willingly shared the benefits of their experiences, the Commonwealth Ombudsman quickly became an active participant in various ombudsman networks and forums. These included the International Ombudsman Institute (IOI) – a global network of bodies with similar objectives of promoting administrative justice and good governance – and its regional chapter in Australasia and the Pacific. The Commonwealth Ombudsman joined the Australia and New Zealand Ombudsman Association (ANZOA) when it was founded in 2003. Included in the membership of ANZOA, both public sector and industry ombudsman offices benefited from sharing information on topics such as learning and development, outreach, internal review of decisions, and benchmarking ombudsman investigation work.

The Commonwealth Ombudsman hosted the Fourth International Ombudsman Conference in Canberra in 1988, as well as other international meetings. Various ombudsmen and senior staff of the office presented papers at conferences and seminars, and some took on leadership roles in committees and working parties. Ron McLeod was the first Commonwealth Ombudsman to become a member of the board of the International Ombudsman Institute, serving as Vice-President of the IOI's Australasian and Pacific Ombudsman Region (APOR) late in his term as Ombudsman. The Commonwealth Ombudsman played a key role in the AusAID-funded Pacific Ombudsman Alliance, formed in 2008–09 to develop new forms of regional cooperation and to strengthen Pacific ombudsman offices. Unanimously elected as President of APOR on 1 April 2014, Colin Neave served in the role until 15 November 2016, just before he retired as Commonwealth Ombudsman.

TOP: Hosted by Ombudsman John McMillan, the 25th annual meeting of the Australasian and Pacific Ombudsman Region (APOR) was held in Canberra in March 2010.

BOTTOM: On 3 May 2016, Ombudsman Colin Neave hosted an APOR conference in Melbourne. Guest speakers on the theme 'Building Relationships; Meeting Global Challenges' included John R. Walters, President of the International Ombudsman Institute.

1988

The Ombudsman hosted the Fourth International Ombudsman Conference in Canberra from 24–27 October 1988. Having persuaded the Prime Minister that it would be valuable to Australia's standing in the international ombudsmen community, Jack Richardson conveyed the invitation to their third conference, held in Stockholm in June 1984. When the invitation was accepted, after some negotiation on his part, he served on the International Ombudsman Consultative Committee which was responsible for planning the 1988 conference.

On the theme 'The Ombudsman – The Challenge of Change', the Canberra conference was attended by representatives of 69 ombudsman offices from 36 countries. Ombudsman Dennis Pearce reported that it had served to bring to the attention of the world community the significance and success of the institution of the Commonwealth Ombudsman. He noted that the Australian Ombudsman's office was the only one established in all jurisdictions of a federation, and that it was used by citizens to a greater extent than in any other country.

TOP LEFT: *(L-R) Col. S Kitundu, Chairman, Commission for Enforcement of the Leadership Code, Tanzania; Mr W Chirambasukwa, Dep Ombudsman, Zimbabwe; The Hon Justice E Sakala, Ombudsman, Zambia; Mr H Mfundo, Commission for Enforcement of the Leadership Code.*

TOP RIGHT: *(L-R) His Excellency The Right Hon Sir Ninian Stephen, then Governor-General of Australia;. Mr A H Peddle, Parliamentary Commissioner, Newfoundland.*

BOTTOM LEFT: *Mr C Maino Aoae, Chief Parliamentary Ombudsman Papua New Guinea.*

BOTTOM RIGHT: *(L-R) Mr G Kolts, former Commonwealth Ombudsman, Australia; Mr R Peggie, Commissioner for Local Administration in Scotland; Mr D Smith Official Secretary to the Governor—General.*

1989

From the time it opened in 1977, the Ombudsman's office had been responsible for investigating complaints relating to the administration of the Australian Capital Territory (ACT). There, federal agencies carried out functions ordinarily undertaken by state or local governments, relating to housing, welfare, hospitals, planning, electricity, water and schools.

After self-government for the ACT came into effect on 11 May 1989, the *ACT Ombudsman Act 1989* created the position of a separate ACT Ombudsman to investigate complaints against ACT government agencies. The *ACT Self-Government (Consequential Provisions) Act 1988* ensured continuity of the office by providing that the Commonwealth Ombudsman would be the ACT Ombudsman until such time as the ACT government appointed a person of its own choosing. Dennis Pearce was appointed as the first ACT Ombudsman. The ACT government funded the function, and the Ombudsman's Canberra office maintained a counter service available to all persons in the ACT. In July 1991 an ACT regional office was formally established within the Commonwealth office to deal specifically with complaints about the local government and other aspects of administration particular to the ACT.

1991

At the completion of his appointed term, during which caseload and functions had continued to expand, difficult financial issues had been dealt with, community knowledge of the Ombudsman's role had grown and a major external review of the office had been instigated, Dennis Pearce left on 31 January 1991.

Lindsay Shaw acted as Ombudsman until Alan Cameron, previously the national managing partner of a major law firm, was appointed as the fourth Commonwealth Ombudsman from 1 April 1991.

ALAN JOHN CAMERON AO

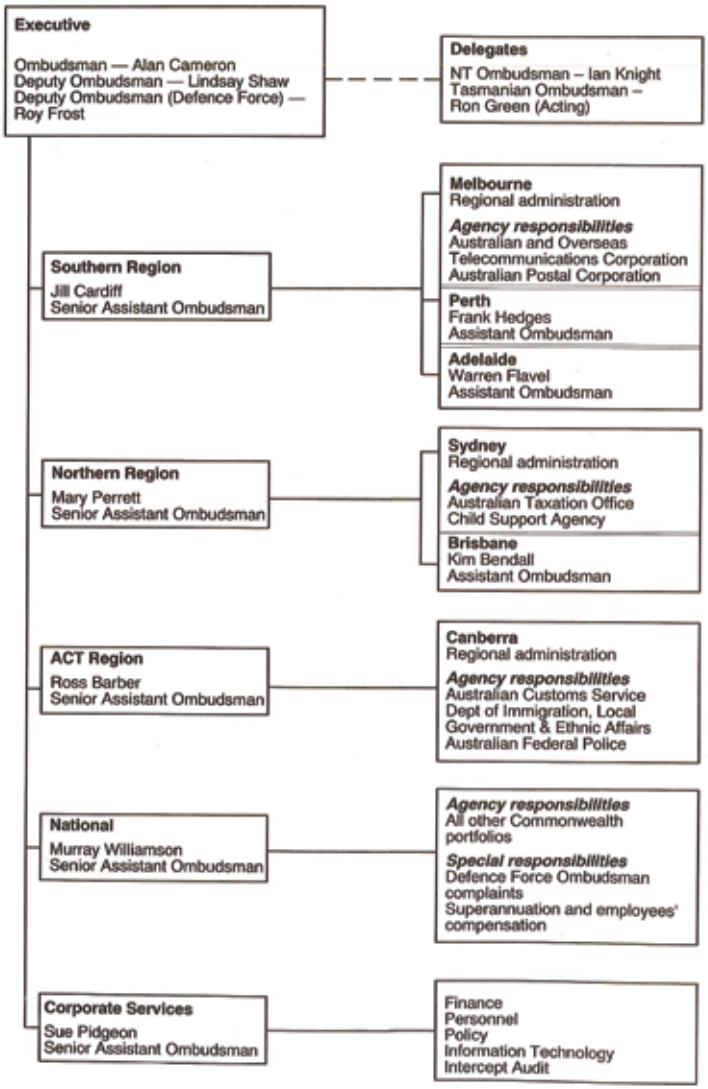
Ombudsman 1 April 1991 – 31 December 1992

Born 9 February 1948 at Darlinghurst, New South Wales. Attended Trinity Grammar School and The Scots College, Sydney. Prominent in student politics at the University of Sydney. Graduated BA 1968, LLB 1971. Articled clerk, then solicitor at Dawson Waldron 1969–73. Principal Solicitor NSW Aboriginal Legal Service 1973–75. Law Council of Australia International Legal Centre Fellowship, teaching law at the University of North Sumatra, Medan 1975–77. Completed thesis while in Indonesia and graduated LLM, University of Sydney 1977. Returned to Dawson Waldron – made Partner 1979 and worked for six months in London. Appointed inaugural Managing Partner in Sydney 1982, first National Partner of Blake Dawson Waldron in 1989. During 1980s served as judicial member of the New South Wales Equal Opportunity Tribunal, and Chairman, Business Law Section, Law Council of Australia.

Appointed Ombudsman from 1 April 1991. Immediately preoccupied with a major parliamentary review of the Ombudsman's office. Term cut short when appointed Chairman of the Australian Securities Commission, later the Australian Securities and Investments Commission, 1993–2000. Director, then Deputy Chairman, of the Sydney Futures Exchange Limited 2001–06. Foundation partner Cameron Ralph governance consulting firm 2002–12. Chair of numerous companies and public sector bodies 2000–. Involved in regulatory projects, law reform and governance reviews in Australia and overseas. Conducted corporate governance courses for the Australian Institute of Company Directors and led programs for the Toronto Leadership Centre 2002–15. Fellow of Senate of the University of Sydney 2004–14, including several terms as Deputy Chancellor 2008–14. Appointed Member of the Order of Australia (AM) in 1997, was made an Officer (AO) in June 2011 for distinguished service to business and commerce, tertiary education and the community. Appointed Chairman of the ASX Governance Council November 2011. Commenced three-year appointment as part-time Chair, New South Wales Law Reform Commission, on 26 November 2015.

Ombudsman collection. Heide Smith Photography.

Early in his term as Ombudsman, Alan Cameron encouraged staff to participate in an office reorganisation. The consequent restructure was implemented in two stages, in June 1991 and January 1992. Aiming to improve both efficiency and effectiveness, this structure, as at 30 June 1992, reflected changes made during the 1991–92 review of the Office of the Commonwealth Ombudsman by the Senate Standing Committee on Finance and Public Administration.



1991

On 13 December 1990, Prime Minister Bob Hawke announced that the Senate Standing Committee on Finance and Public Administration would review the Office of the Commonwealth Ombudsman. The Committee was to consider the scope of the Ombudsman's jurisdiction, the performance of the office in terms of its powers and functions, the adequacy of the organisation's resources to perform its various functions and whether any consequential amendments to the Ombudsman Act were desirable.

This first formal external review of the Ombudsman's office, as it approached its fifteenth anniversary, was already underway when Alan Cameron commenced his term. The Ombudsman made a comprehensive submission to the review, and senior officers appeared at hearings before the Committee from May 1991. Obliged to make an immediate study of his charter and operations, the new Ombudsman focused on enhancing professional management capacity of the office, making its services more visible to the public, ensuring that low-income and disadvantaged groups in need of those services would have ready access to them, and on finding remedies for underlying causes of complaints.

1992

Most of the recommendations made by the review committee were accepted by the Government, by then led by Prime Minister Paul Keating, in its response tabled in the Senate on 15 December 1992. Noting a high level of satisfaction from complainants, the Senate Standing Committee on Finance and Public Administration bestowed a vote of confidence on the Ombudsman's office for its positive contribution to Australian public administration. Its report made a series of recommendations aimed at maintaining and strengthening that contribution. These included promoting consistency in and resolving some questions of jurisdiction.

Acknowledging that funding of the Ombudsman was the Government's responsibility, the committee recommended extra resourcing to allow the office to properly carry out its complaint resolution functions, particularly in relation to police complaints. Substantial improvements to the office's structure and operations resulted from increased funding provided in 1992–93 to upgrade information technology and reporting systems and employ several new staff members to combat the increasing workload. Creation and resourcing of a special investigation unit, to enhance the office's capacity to take on larger issues without limiting other services, was also recommended. Additional funds in 1993–94 enabled the office to set up major projects, to undertake outreach training and activities and to conduct a community awareness survey.

ASSESSING SUCCESS

Considering how best to assess the performance of his office in a meaningful way, Ombudsman Alan Cameron opined that the effectiveness and efficiency of the office should not be measured by the number of complaints it dealt with. Rather, success lay in the extent to which the office was known and used by the community, the perception of its clients (both complainants and government agencies) about the quality of its work, and the degree to which it was able not only to achieve remedies for individuals affected by administrative defects but also to cause operational systems to be changed to prevent future complaints. Trust in the Ombudsman would be based on its public reputation, which was most likely to be enhanced by the prominent major investigations with which the office was associated.

He noted that the fact that the Ombudsman was not an advocate for complainants, unless an investigation revealed defective administration, was a subtle and complex message that frequently eluded complainants and administrators alike.

Annual Reports 1990–91 (14th) and 1991–92 (15th)

LEDGER TO LOG-ON

When the Office of the Commonwealth Ombudsman opened its doors on 1 July 1977 it had five staff, and its telephone number was not yet listed in the phone book. Anyone wishing to make a complaint had to write a letter to the Canberra office. The 2656 complaints received in the first year – including 170 made before the office opened – and thousands more in subsequent years needed to be painstakingly logged by hand in a large ledger. They were recorded on a single line, with details such as the complainant's name, agency complained about and complaint subject. All related papers were placed on a file, and a notation made in the ledger when the complaint was finalised.

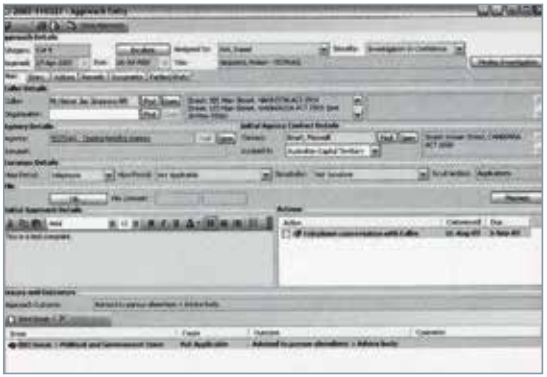
Counter service was made available in the 'central' and 'regional' offices to enable potential complainants to call in and obtain personal assistance. Once the office telephone numbers became known, the majority of complaints began to be made orally, proving to be far less resource intensive than written complaints. The Ombudsman's office relied on pamphlets, face to face publicity and what advertising they could afford to get their message out and to communicate with the public. Physical proximity was important, with particular staff placed in offices in state capitals to be near identified major sources of complaints.

As computer technology began to be developed, the office took as much advantage of it as was possible. Constantly constrained by lack of resources, the Ombudsman used every official avenue available to have computer equipment allocated to the office. Always forward-thinking, the office aimed to link the national and state office staff, giving them access to the increasingly rich repository of data being amassed in the course of the Ombudsman's work, and reducing the need for physical proximity.

Word processing facilities purchased in the early 1980s sped up the production of reports and enabled the Ombudsman and Deputy Ombudsmen to monitor their progress. The office developed a centralised recording system, using automatic word processing and information retrieval equipment, to make it possible for any member of staff to obtain quick access to all stored information about investigations which might be of value as precedents, or about agencies, policies and procedures. Complaint recording was modified to enable automatic identification of similar matters, wherever they originated, and administrative procedures were refined to ensure that all useful material was retained and could be retrieved.

An Automatic Data Processing Strategic Plan was approved in 1983–84. By the end of 1985 the office had acquired microcomputers for the Canberra office, networked to a 'CT Megaframe'. One microcomputer was for word processing purposes and the other for software development and system testing. Central office was able to use the computer system to record all complaints, track complaint processing, report on outstanding matters and provide some statistics on workflow by 1986. By 1989 all of the Ombudsman's offices had computers and were able to enter complaints into a database rather than a ledger.

Pivotal to the office's operations, the complaint management system was continually reviewed, developed and upgraded. In-house solutions designed in the early years encountered some technical problems, and it was a constant challenge to replace outmoded systems and obsolete equipment. A temporary boost to funding for information technology following a review by the Senate Standing Committee on Finance and Public Administration



TOP: Online lodgement form 2017.
LEFT: Ledger 1977.
RIGHT: Approach screen 2007.

in the early 1990s provided some much-needed impetus. An IT Strategic Plan was implemented, and the first IT officer was recruited at that time. Equipped with a suite of modern information and communication technology by the turn of the century, the Ombudsman's office, along with other agencies, put in place computer risk management and contingency plans in preparation for widely anticipated Y2K (Year 2000) emergencies which did not eventuate.

By 2004 the IT team in Canberra had seven members, responsible for facilitating network and desktop electronic services, security and access controls to all offices nationally. Strengthening the integrated national structure of the office, a sophisticated complaint management system, *Resolve*, was installed in 2005–06. As well as enabling statistical analysis of stored complaint data, it supported electronic records management and an automated workflow process for investigations, and incorporated a comprehensive online work practice manual and training for staff. In subsequent years, the scope of *Resolve* was extended to support other functions such as those relating to private health insurance, expanded Defence Force Ombudsman and immigration roles, and numerous previously paper-based corporate management tasks. By 2017, additional responsibilities for the ten members of the Information and Communications Technology (ICT) team included electronic information and website management, business analysis and statistical reporting.

Always important to the Ombudsman's work, telephonic equipment was also regularly upgraded. The installation of facsimile machines in 1987–88 and of a modern private automatic branch exchange (PABX) system in central office the following year greatly improved work practices. In the interests of maintaining more personal contact with local communities, it was decided not to introduce a call centre in 1999–2000. With complaint numbers escalating to over 30 000 a year, a Public Contact Team of 12 staff was set up in 2006. Enhancing the office's ability to provide a nationally consistent service, it was created to receive and assess all telephone approaches and electronically submitted complaints

LEFT: Public Contact Team 2005–06. **RIGHT:** Complaints line 2002–03.

OMBUZZ

the staff newsletter of the Commonwealth Ombudsman's Office

What do you do with the Ombudsman's public report on activities for 1995-96?

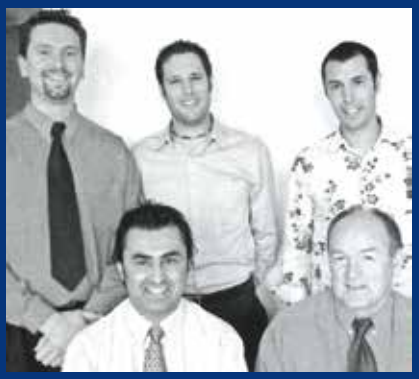
Proper Care of Floppy Disks?

Remember .....

Ombuzz is a publication about you!

If you want to read things that interest you, you better keep sending contributions. Or otherwise you'll have to keep reading the stuff I write — Ed.

A letter to Glenys Romanes from the Financial and Consumer Rights Council, following her participation in a financial counsellors' workshop



TOP: Complaints line 2001–02.
BOTTOM: IT Team 2003–04.
Back (L-R): Paul McInerney, Sasha Eichner, Brendan Murdock.
Front (L-R): Darren Da Silva, Peter Rankin

freeing investigation staff to focus on complaint-handling and systemic issues. A redesigned telephone queue system and auto-attendant messaging, providing preliminary information about matters falling within the Ombudsman's jurisdiction and procedures for making a complaint, was put in place in 2012–13. This enabled the Public Contact Team to focus on callers making complaints clearly within jurisdiction and more likely to warrant further assessment. While most approaches were still being made by phone in 2015–16, increasing numbers of complaints were being lodged using the smart-form on the Ombudsman's website.

Also constantly under development, the website was rebranded and refreshed in 2015–16. Accessibility, readability and online services were substantially improved. Making available an extensive range of Ombudsman reports and other publications, the website also took advantage of social media networks to reach wider audiences and increase the visibility of the Ombudsman's role and functions. Consumer news, tips and other related information were able to be shared instantly with key stakeholders, enhancing virtual communication with other agencies, contractors, the media and the public.

1992

With implementation of the Senate review proceeding, in December 1992 Alan Cameron resigned as Commonwealth Ombudsman, to become Chairman of the Australian Securities Commission (later the Australian Securities and Investments Commission).
Lindsay Shaw again acted as Ombudsman until a new Ombudsman could be appointed.

1993

Philippa Smith, the fifth Commonwealth Ombudsman, was the first female and the first non-lawyer to be appointed. Coming to the role as a renowned consumer advocate, she commenced her five-year term on 17 May 1993.

An information register of reference material compiled specifically for ombudsmen in the Australasia Pacific region (OMBIS) was initiated at meeting of Australian, New Zealand and Asia Pacific ombudsmen held in October 1991. The Commonwealth Ombudsman took on responsibility for compiling and updating the register, which was in operation by 1993.

Constantly evolving responsibilities for the Ombudsman resulted from a miscellany of legislative amendments and changes to regulations. Amendments to the Bankruptcy Act in 1992 gave the Ombudsman the power to request the Inspector-General in Bankruptcy to review certain actions by private trustees. Achieving more consistency with other jurisdictions, during 1992–93 the standard of proof in Australian Federal Police disciplinary matters became the civil (balance of probabilities) rather than the criminal (beyond reasonable doubt) standard. In December 1994 an amendment to the Ombudsman Act gave the Ombudsman jurisdiction over contracted case managers employed by the new Employment Services Regulatory Authority (ESRA). The *Witness Protection Act 1994* formalised the Ombudsman's power to accept complaints from people involved in the witness protection program. Reflecting the growing number of corporatised government services, there was an increase in complaints relating to commercial matters.

Until 1993, the Ombudsman had responsibility for investigating complaints about Telecom (later Telstra), which was then a government instrumentality. At that time, complaints about Telecom accounted for around one-fifth of all complaints received by the Ombudsman. With the introduction of the Telecommunications Industry Ombudsman (TIO) scheme, which began operations late in 1993, these complaints were transferred from the Ombudsman's jurisdiction.

PHILIPPA JUDITH SMITH AM

Ombudsman 17 May 1993 – 6 February 1998

Born 19 August 1950 in Sydney, New South Wales. Attended Elmwood Public School, Sydney Church of England Girls' Grammar School (SCEGGS) Moss Vale and Cremorne, and Abbotsleigh School in Wahroonga. Graduated B.Ec University of Sydney 1972. Worked as research officer Actors and Announcers Equity 1972–73, then for Terminals & Depots Employers Federation 1973–74. Senior Policy Analyst and Acting Secretary General, Australian Council of Social Services 1974–83. Building a career in consumer advocacy, wrote a weekly column on consumer issues for the Sun Herald 1982–86. Commissioner NSW Law Reform Commission 1982–84. NSW Department of Health Medicare Consultant (1983–84) and inaugural Manager of the ground-breaking Health Care Complaints Unit (1984–85). Manager Policy and Public Affairs Australian Consumers' Association 1985–89. Member of Senate, University of NSW 1988–89. Inaugural Chair Consumers Health Forum 1987–89, and executive member of the International Organisation of Consumer Unions. Director Corporate Policy and Planning Australian Broadcasting Corporation 1989–90. Member Administrative Appeals Tribunal 1991–93. Made a Member of the Order of Australia (AM) June 1992 for service to the community particularly through the formulation of social welfare policies.

First non-lawyer and first woman to be appointed Ombudsman from 17 May 1993. Gave priority to redressing systemic problems in public sector administration and to improving access for the most vulnerable. Nearing end of five-year term, was appointed CEO Association of Superannuation Funds of Australia 1998–2007. Throughout career, numerous community, business and government appointments to boards and advisory bodies on broad-ranging subjects including consumer affairs, public health administration, copyright, economic and environmental issues and the status of women. Member NSW Administrative Decisions Tribunal 2001–16. Awarded Diploma, Australian Institute of Company Directors and appointed Director First State Super in 2007. Chair Food Standards Australia New Zealand Board 2008–16. Public Member Australian Press Council 2012–14. Independent director Telecommunications Industry Ombudsman Scheme 2014–17.

Stimulated by economic pressures, as well as by heightened government and community expectations about public sector practice and performance, there was a fundamental overhaul of the Australian Public Service. Major reforms directed towards more efficient and effective administration, devolved financial and resource management, stronger accountability, enhanced competitiveness and promoting a culture of performance management were put in place from 1984 onwards. The Public Service Board was abolished in 1987 and replaced by a Commission. A team led by Ron McLeod (then Deputy Secretary to the Department of Defence and later the Commonwealth Ombudsman) carried out a comprehensive review of public service legislation in the mid-1990s. Many of the review recommendations were incorporated in the new *Public Service Act 1999*.

A specialist Taxation Ombudsman was established within the Office of the Commonwealth Ombudsman in April 1995, in line with a recommendation made by the Joint Committee of Public Accounts. The move attracted a great deal of public interest and a sharp rise in complaints on taxation matters. Grappling with an ongoing proliferation of tax-avoidance schemes, and one of the first major public sector agencies to introduce emergent automatic data processing (ADP) technology, the Australian Taxation Office (ATO) struggled to maintain good relationships with the public and was a major source of work for the Ombudsman's office. ATO action in relation to mass-marketed investment schemes, and the introduction of the Goods and Services Tax (GST) from 1 July 2000 both generated huge numbers of complaints. While relationships between the Ombudsman and the tax office were traditionally collaborative, and the ATO took on increasing accountability for dealing with systemic issues through its internal complaint-handling system, challenges for the Ombudsman's small tax team included maintaining familiarity with constantly changing complex taxation legislation, and conducting large scale investigations.

Following a major investigation in 1998–99 of 1600 complaints from investors who faced large tax liabilities as a result of the ATO's disallowance of tax deductions claimed through a financing scheme known as 'Budplan', the Ombudsman concluded that the ATO had acted correctly. Releasing the investigation report publicly, the Ombudsman joined the Commissioner for Taxation, Michael Carmody, and the Chairman of the Australian Securities and Investment Commission, former Ombudsman Alan Cameron, in warning investors to be wary of tax effective investment schemes offering benefits that seem 'too good to be true'.

In 2000, the Senate Economic References Committee Inquiry into the operations of the ATO noted the importance of having a strong, well-resourced and independent Ombudsman 'as counterweight to the ATO's power'.

The specialist role as Taxation Ombudsman continued until May 2015.

1994

In May 1994, as part of a detailed action plan for improving access to justice for all Australians, the Access to Justice Advisory Committee (AJAC) gave strong support to complaints-based dispute resolution schemes such as the Commonwealth Ombudsman. Deemed to be faster and less complex than the courts system, such schemes had the potential to improve public perception of a service provider and, importantly, helped to highlight and resolve problems causing difficulty for people dealing with government. Noting that complaints-based mechanisms generally did not effectively address systemic discrimination, the committee encouraged a greater emphasis on this aspect. It also recommended that, to protect the public credibility and standing of the office, use of the term 'Ombudsman' should be restricted to organisations meeting appropriate standards of independence and impartiality in the complaint resolution process.

1995

The Ombudsman's office played a key role in the development of a non-statutory administrative compensation scheme which was adopted by government in 1995. Under the Compensation for Detriment caused by Defective Administration (CDDA) scheme, agencies were enabled to compensate members of the public for detriment or loss caused by incorrect agency advice or an unreasonable administrative failure, without the need to first establish a legal liability. A recommendation or suggestion by the Ombudsman was made a sufficient basis for compensation to be paid, even where a case did not quite fit within the scheme. The CDDA scheme became an important tool for the office to use in prompting agencies to find a satisfactory remedy to address a grievance.

1996

A year of transition and change in 1995–96 included the first moves for the Ombudsman's offices in Canberra (to 1 Farrell Place) and Sydney (to the Landmark Building in George Street). A direct Commonwealth presence was established in Darwin, with the employment of a staff member there.

As well as resourcing the Tax Ombudsman function, the office continued to implement the recommendations of the Senate Standing Committee on Finance and Public Administration. A major projects team was set up, specialist liaison officers were assigned to work on targeted outreach programs and enhancements made to public affairs, policy and training programs. Record numbers of complaints were confronted in consecutive years with more than 25 000 logged in 1996–97, the Ombudsman's twentieth year of operation.

A sharp turnaround in the provision of funding in 1995–96 was the catalyst for a change in direction. Facing a budget cut of around 19 per cent – an amount greater than the additional funding which had been recommended by the Senate Committee to enable the office to carry out its functions – the Ombudsman was under extreme financial pressure. Intercept audit and outreach activities were curtailed, the Deputy Ombudsman (Defence Force) position was abolished, and the Hobart agency arrangements were discontinued. Consequent cutbacks in staffing triggered an increase in the use of the Ombudsman's discretion not to investigate complaints.

RESOURCING THE OMBUDSMAN

A small agency confronting an enormous task from the start, the Office of the Commonwealth Ombudsman never had much flexibility in resourcing. To begin with, it was not endowed with the most favourable staffing structure to be able to attract and retain staff with the skills needed to carry out its work. In accordance with the times, the office's staffing establishment and budgetary allocation were strictly controlled by the Public Service Board and the Department of the Treasury respectively. Throughout its history, the office was subject to the same financial and human resource management regulation applied to all public sector agencies.

Comparisons with state and international counterparts, made at intervals, showed the Commonwealth Ombudsman to be relatively under-resourced, but covering a far wider geographical area and dealing with a much greater volume of complaints than most. Several Ombudsmen engaged in ongoing quests for more resources to perform the functions conferred on them. During especially lean periods, staffing levels were further reduced and various programs and plans were dispensed with to be able to balance the office budget.

Notably forthright, Jack Richardson argued from the beginning that it was 'wrong that the Commonwealth Ombudsman, intended by the Parliament to perform the role of examining complaints from any member of the public completely independent from government administration, should have to run the risk of being fettered in the performance of his statutory functions by bureaucratic action taken without consultation'.[6] Trying various angles during his term, he delivered a final salvo, reporting on 'crises in resources' just before he retired in 1985. Concluding that, if the government wished to maintain the effectiveness of the Ombudsman's office it would have to give it more tangible support than it had done, he declared: 'My most conspicuous failure in eight years has been my inability to convince the Government that the Ombudsman ship is being spoilt for an ha'p'orth of tar.'[7]

After a long delay in appointing the second Ombudsman, Geoff Kolts recalled that his offer to take on the role was accepted with alacrity by the Attorney-General and the Prime Minister, but on the proviso that he should not ask for more resources. Various Ombudsmen expressed concerns about service standards, and not being able to reach out to disadvantaged communities who had the most likelihood of complaints, or pointed to non-investigative functions being neglected. Recognising that the Ombudsman was not being subjected to proportionately greater cuts than other agencies, they believed they were nonetheless operating from an inadequate base. Several raised the particular challenges for smaller agencies in coping with across-the-board cuts. Dennis Pearce contended that the independence of the Ombudsman was being compromised by subtle control through diminution of resources.[8] His remark that 'it makes a government feel good to have an ombudsman, and even better to have an under-resourced ombudsman' was long-remembered by some who heard it.[9]

Arguing that the office was one of the most inexpensive and cost effective mechanisms of administrative and legal review in existence, Philippa Smith suggested to the Prime Minister that the Ombudsman should be regarded as having a value similar to a caged canary in a coal mine – a tiny creature able to alert the government to big problems. Her protests about particularly substantial cut-backs in the mid-1990s were the subject of some humorous attention in the press.

[6]Second Annual Report 1979 p.3, [7]Eighth Annual Report 1984–85 p.4, [8]13th Annual Report 1989–90 p.3, [9]John McMillan, oral history, 25 November 2016.

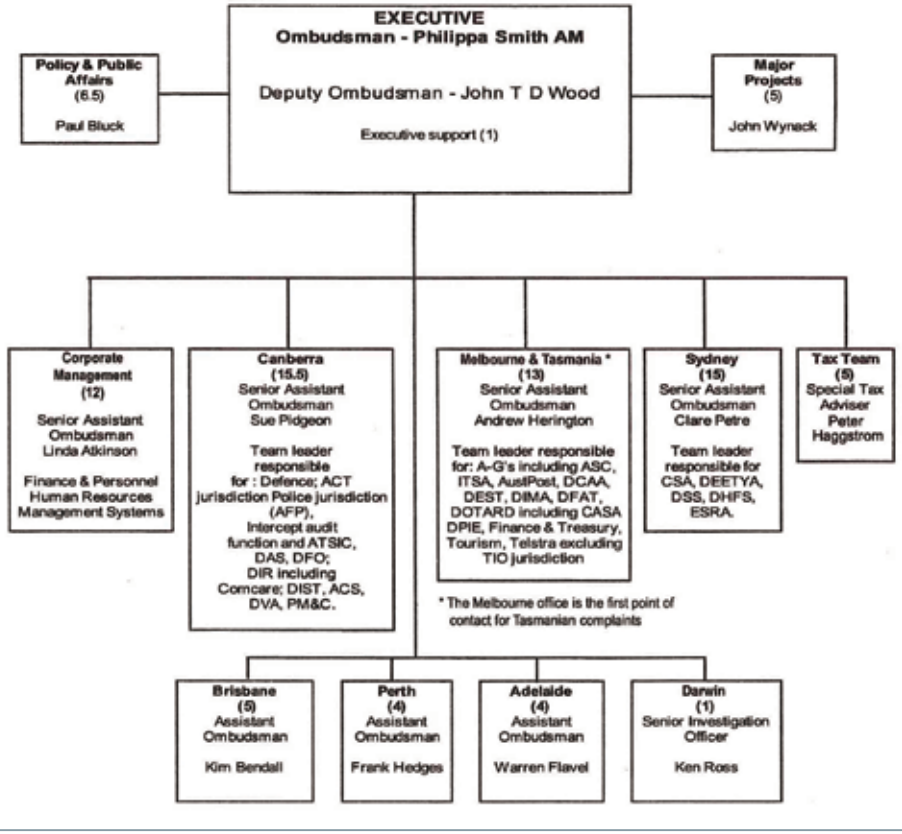
TOP RIGHT: *The Age*, Melbourne, 19 April 1996.
Reproduced courtesy of the artist, Ron Tandberg.

BOTTOM RIGHT: *Reproduced courtesy of the artist, Cathy Wilcox.*

LEFT: *The Australian Financial Review*, 18 April 1996.
Artist unkown.

Office of the Commonwealth Ombudsman, team leaders and office managers 1997.

Structure of the Office of the Commonwealth Ombudsman as at 30 June 1997, the end of its twentieth year of operation.



TWENTY YEARS OF THE COMMONWEALTH OMBUDSMAN

To mark the 20th anniversary of the establishment of the Office of the Commonwealth Ombudsman in 1997, a souvenir booklet was produced. It included congratulatory messages from the Prime Minister and leaders of other political parties. Prime Minister John Howard recalled his enthusiastic support for the proposed legislation during debate on the Ombudsman Bill in 1975, when he was a newly-elected opposition Member of Parliament. Ombudsman Philippa Smith took the opportunity to reinforce messages contained in the unadorned 20th Annual Report, about the value of accountability and concerns that drastically reduced funding would compromise the Ombudsman's ability to deliver services.

Articles in the souvenir book were contributed by former Ombudsmen Jack Richardson and Dennis Pearce, and by other key figures in the development of Australian administrative law. Sir Gerard Brennan, then Chief Justice of the High Court, whose outstanding contribution to the field included his work as inaugural President of both the Administrative Appeals Tribunal and the Administrative Review Council, wrote:

> *It is hard now to imagine that administrative decisions had been cloaked from external review to a significant extent before the new package prised open the bases on which decisions were made and the procedure followed in making them. … It is not surprising that there have been – indeed, there will always be – some tensions between the integers of the new administrative law package and the repositories of administrative power. But that is the very purpose of the … package. The due performance of the functions of the Ombudsman are critical to its success.*
>
> *Twenty Years of the Commonwealth Ombudsman 1977–1997 pp. 33-36*

1997

Development and release of *A Good Practice Guide for Effective Complaint Handling* in 1997 was one of the measures employed by the Ombudsman to assist agencies to develop effective internal complaint procedures after the introduction of government service charters. A survey revealed that less than 20 per cent of 80 responding agencies had complaint-handling systems in place which were likely to satisfy Australian standards, and that there was a general lack of understanding about their importance. Promoting good practice in various forums, the Ombudsman's office also conducted systemic investigations into the complaint-handling mechanisms in various agencies. An updated *Guide* was published in 2007.

1998

Philippa Smith resigned with effect from 6 February 1998 to become Chief Executive Officer of the Association of Superannuation Funds of Australia.

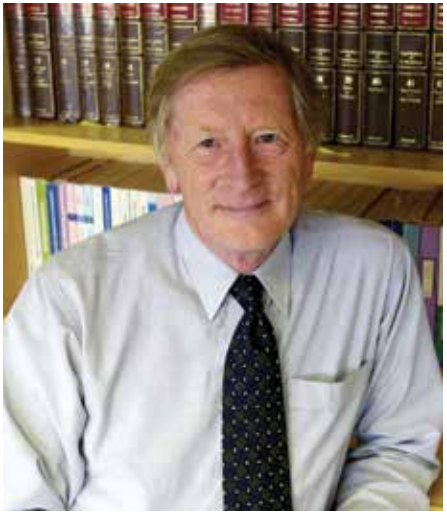
Appointed to the role after a wide-ranging career in government, the sixth Commonwealth Ombudsman, Ron McLeod AM, commenced his five-year term on 18 February 1998.

Numbers of complaints fluctuated during Ron McLeod's term. An initial modest decline was attributed to improvements in both standards of service and agency complaint-handling mechanisms. Complaints, which remained at over 20 000 each year, continued to reflect issues with changes to public administration and the introduction of new policies or new systems of technology in various agencies. Drops in the level of complaints in certain areas were also indicative of improved administration or resolution of systemic issues. A combination of factors had led to a steady increase in the proportion of complaints for which the office exercised its discretion not to investigate, with that figure standing at 72 per cent by the turn of the century.

The Ombudsman's office re-established a presence in all Australian state and territory capital cities before mid-1998. Filling what was recognised as an important outreach role, investigation officers were placed in both Darwin and Hobart, co-located with the Ombudsman's local counterparts.

RONALD NEVILLE MCLEOD AM

Ombudsman 18 February 1998 – 28 February 2003



Born 7 December 1939 in Warrnambool, Victoria. Educated at Warrnambool Primary and High Schools, then at Melbourne High School. While studying part-time 1958–63 was employed as a clerk, principally in the industrial relations area of the Postmaster General's Department. Played Victorian Football at senior levels with Melbourne and Port Melbourne Clubs. Graduated B.Com University of Melbourne 1964. Promoted to Assistant Inspector, Pay Policy at the Public Service Board in Canberra 1965. Consolidated expertise in industrial relations, rising to become a member of the Senior Executive Service as Assistant Commissioner, Pay Policy Branch 1971. Secretary to the Public Service Board 1976–78. Also First Assistant Commissioner Planning Legislation and Projects 1978–80, and then head of Pay and Conditions Division 1980. Promoted to Deputy Secretary, Budget and Management, Department of Defence 1984. Admitted as a Fellow, Australian Institute of Management 1990. Served as a member of the APS Joint Council, the APS Joint Training Council, the Advisory Council of the Australian Archives and the Australian Decorations Advisory Committee. Seconded to lead a review of the Public Service Act 1922 during 1994–95 – the review report formed a basis for subsequent development of new legislation. Made a Member of the Order of Australia (AM) June 1994 for public service. Appointed Inspector General of Intelligence and Security April 1995.

Appointed Ombudsman 18 February 1998. First Commonwealth Ombudsman to be a member of the board of the International Ombudsman Institute. Retired from the public service at the end of his term in February 2003. Undertook numerous consultancies for Commonwealth and ACT governments 2003–08. Led the inquiry into the operational response to the January 2003 bushfires in the ACT. Appointed a Commissioner of the Victorian Bushfires Royal Commission 2009–10. Undertook a review of the funding and disclosure functions of the Australian Electoral Commission in 2012.

Members of the executive management team, 1999.

Back L-R: Ombudsman Ron McLeod, Deputy Ombudsman Oliver Winder.

Front L-R: Senior Assistant Ombudsmen Philip Moss, Mary Bennett, Linda Atkinson, Catherine McPherson.

OMBUDSMAN'S OFFICE ORGANISATIONAL STRUCTURE AT 30 JUNE 1999

HEADQUARTERS
Commonwealth Ombudsman, Ron McLeod AM

CORPORATE MANAGEMENT
Senior Assistant Ombudsman, Linda Atkinson

POLICY AND PUBLIC AFFAIRS
Director, Policy, Paul Bluck
Director, Public Affairs, Stephen Fynmore

MAJOR PROJECTS
Director of Investigations, John Wynack

TERRITORIES REGION
Canberra
Senior Assistant Ombudsman & regional manager for NT, Philip Moss
Darwin
Senior Investigation Officer, Pamela Madden

EASTERN REGION
Sydney
Senior Assistant Ombudsman & regional manager for QLD, Mary Bennett
Brisbane
Assistant Ombudsman, Kim Bendall

SOUTHERN REGION
Melbourne
Senior Assistant Ombudsman & regional manager for SA and WA, John Taylor (acting)
Adelaide
Assistant Ombudsman, Warren Flavel
Perth
Assistant Ombudsman, Allan Smith (acting)
Hobart
Senior Investigation Officer, Andrew Westmorland

TAX TEAM
Special Tax Adviser
Catherine McPherson

1999

Mounting concerns that many government agencies were still not acting within the spirit of the Freedom of Information (FOI) Act prompted an own motion investigation into administration of the Act in 1998–99. Entitled *Needs to Know*, the investigation report detailed widespread problems in the recording of FOI decisions. Misuse of exemption provisions to avoid disclosure of information, particularly in agencies likely to receive requests about government policy matters, was also an issue. Concluding that some of the principles of the original legislation had been forgotten or were not fully understood by some managers working in government agencies, the Ombudsman made recommendations designed to reinforce the principles and provisions contained in the FOI Act. Most agencies indicated that they would take remedial action consistent with the recommendations.

2001

From 2001–02 the Ombudsman engaged in government partnership funding with the Australian Agency for International Development (AusAID) to establish programs of mutual cooperation and assistance with Ombudsman offices in Asia and the Pacific. Work in this area steadily increased in succeeding years. Staff of the office played a key supporting role in the development and enhancement of Ombudsman offices in countries such as Papua New Guinea, Indonesia, Thailand, Fiji, Samoa, Tonga, Vanuatu and the Cook, Marshall and Solomon Islands.
The Commonwealth Ombudsman was also host to numerous study tours and visits from senior level delegations and representatives from Ombudsman offices in numerous countries around the world.

TOP LEFT: *Attorney-General Daryl Williams AM QC MP, representing the Prime Minister at the Ombudsman 25th Anniversary Dinner, at University House on 1 July 2002.*

TOP RIGHT: *Sir Brian Elwood CBE, Chief Ombudsman of New Zealand and President of the International Ombudsman Institute, at the Commonwealth Ombudsman 25th Anniversary Dinner in Canberra.*

LEFT: *(L-R) Ombudsman Ron McLeod with former Ombudsmen Dennis Pearce, Philippa Smith, Jack Richardson and Alan Cameron at the 25th Anniversary Dinner.*

CELEBRATING 25 YEARS OF SERVICE TO THE AUSTRALIAN COMMUNITY

Features commemorating the 25-year history of the Office of the Commonwealth Ombudsman were published in the 2001–02 Annual Report. An anniversary dinner was held at University House, at the ANU, on 1 July 2002. Representing the Prime Minister at this function, Attorney-General Daryl Williams AM QC MP said:

Overall, the institution of the Commonwealth Ombudsman has succeeded and prospered because it has remained true to its basic principles and the roles expected of it by the community and the Parliament. … [it has] achieved a high level of credibility and moral authority based on the integrity of its investigations and the fairness and practicality of the solutions put forward to resolve complaints and systemic issues. The Ombudsman has become an integral and indispensable component of the administrative review system in Australia, helping to ensure that administrative justice is available to all Australians.

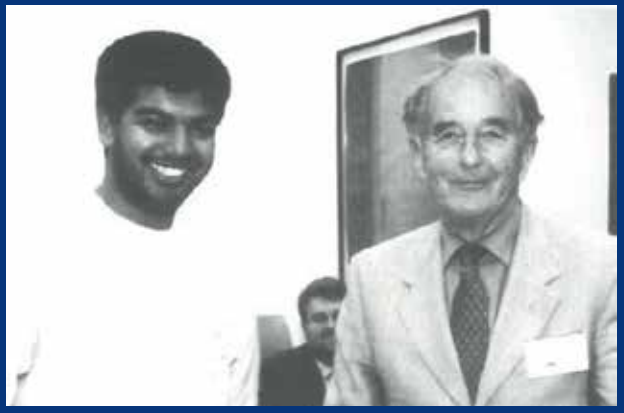
25th Annual Report 2001–02 p.117

2002

To mark the 25th anniversary of the establishment of the Ombudsman's office, in July 2002 the Office of the Commonwealth Ombudsman endowed the Australian National University for the provision of an annual prize for the best essay by an undergraduate in Administrative Law. In recognition of the contributions he made to the Australian framework of administrative law, the prize was designated as the 'Jack Richardson Prize in Administrative Law'. After Jack Richardson's death in 2011 the ACT Law Society instituted a memorial oration in his honour. This was intended as a tribute not only to Professor Richardson himself, but to the values of good administration, transparency and law reform that his career exemplified.

2003

After 44 years of continuous service with the Commonwealth, Ron McLeod retired on 28 February 2003, at the end of his term as Ombudsman. His successor, Professor John McMillan, Alumni Professor of Administrative Law at the Australian National University, was appointed as the seventh Commonwealth Ombudsman on 3 March 2003.



Professor Jack Richardson presented the first Jack Richardson Prize in Administrative Law to Ishtiaque Kazi Omar, Australian National University, 1 May 2003.

Jack Richardson Prize winner in 2006, John Altin, with Deputy Ombudsman Dr Vivienne Thom.

JOHN DENISON MCMILLAN AO

Ombudsman 3 March 2003 – 3 June 2010

Born 17 September 1949 in Canberra, Australian Capital Territory. Primary schooling at Young, New South Wales and Braddon, ACT. Attended Canberra High School. Active in student politics, debating and editing Federal Law Review at the Australian National University. Graduated BA 1970, LLB (Hons) 1972. Admitted to practise in the High Court of Australia 1973 and Supreme Court of the ACT 1978. Associate to High Court Judge Sir Anthony Mason 1973. Lecturer University of NSW Law Faculty 1974–77. Legal Practitioner Pamela Coward & Associates Canberra 1978–79. Principal Investigation Officer, Office of the Commonwealth Ombudsman 1979–80. Visiting Fellow Australian Graduate School of Management 1982–83. Teaching positions ANU Law Faculty 1983–2000, including Deputy Dean (Students) 1995–97 and Alumni Professor of Administrative Law 2000–03. University awards for Excellence in Teaching 1995 and Distinguished Contribution to the University 2004. Throughout public law career, wrote extensively, undertook grant-funded research projects, served in leadership roles in professional and community bodies, member of government advisory committees, and active in public interest advocacy in lobbying and occasional litigation.

Appointed Commonwealth Ombudsman 2003 and reappointed 2008. Acted as Inspector-General of Intelligence and Security (2005–09), Integrity Commissioner (2007) and Privacy Commissioner (2010). Held executive positions in Australian Ombudsmen associations. Outstanding contribution to the practice and study of public administration recognised by appointment as National Fellow of the Institute of Public Administration Australia 2006, Fellow of the Australian and New Zealand Ombudsman Association (2104) and Life Member of the Australian Institute of Administrative Law (2016). Made an Officer of the Order of Australia (AO) January 2010, for service to the law as Ombudsman, through leadership of professional bodies and as an academic. Appointed Emeritus Professor ANU 2010. Australian Information Commissioner, also Chair Information and Privacy Advisory Committees 2010–15. Member Australian Copyright Tribunal 2015. Commenced two-year term as Acting NSW Ombudsman 1 August 2015.

ACCUMULATED WISDOM

In John McMillan's first annual report, for 2002–03, he reflected on the special pleasure of writing it. Noting that his broad objectives as Ombudsman were to continue a fine tradition, distil the accumulated wisdom of 25 years of experience and to cultivate the established profile of the Ombudsman's office as a key accountability institution in Australian government, he recalled:

> *I was fortunate to work as a Principal Investigation Officer for the first Commonwealth Ombudsman, Professor Jack Richardson, in 1979–80. They were formative years for the office. The Ombudsman was then an innovation in the federal framework of government. Much was yet to be resolved as to how the office should handle complaints against government activity spread nationally in areas as diverse as taxation, defence, social welfare, immigration and law enforcement. How the office should relate to the parliament, the public, the media and to other administrative law and regulatory agencies was also undefined. In the intervening years I saw the office consolidate its position in the Australian system of law and government. … The complexity of the Ombudsman structure developed … The office to which I now return has matured but is still in many ways the same. The legislation establishing the office is largely unchanged. The core Ombudsman functions remain the investigation of individual complaints and the improvement of public administration by 'own motion' inquiries and similar work. Investigations are conducted in much the same fashion as before. Public perception of the Ombudsman's role is relatively constant. Yet … the governmental and legal context … is nowadays very different … changed by trends such as outsourcing and the separation within government of policy implementation and program delivery. The regulatory role of government has been reduced in some areas … but in other areas such as taxation and immigration there is now a legislative complexity that is beyond compare. As well there has been a transformation in the standards of compliance expected of government administrators.*
>
> *Ombudsman John McMillan 26th Annual Report 2002–03 p.vii*

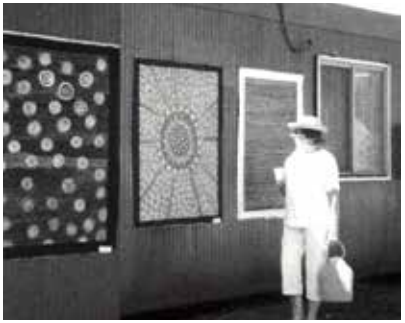
New Ombudsman, John McMillan, with the senior management team in 2003.

(L-R) Catherine McPherson, Helen Fleming, John Taylor, Ron Brent, Philip Moss, John McMillan.

OMBUDSMAN OFFICE STAFF 2002–03







TOP: *Adelaide Office, Hobart Office, Perth Office.* **MIDDLE:** *Brisbane Office, Darwin Office.* **BOTTOM:** *Melbourne Office, Sydney Office.*

OMBUDSMAN OFFICE STAFF 2003–04

Changes to legislation governing the Ombudsman's activities were often years in the making. A comprehensive review of the *Ombudsman Act 1976*, looking to improve and modernise the legislative framework, commenced in 2004, after Prime Minister John Howard gave approval to the Ombudsman to submit a proposal for comprehensive revision of the Act.

Reporting to the Prime Minister in January 2006, the Ombudsman proposed measures to improve and simplify the framework for administrative investigation, and to address some difficult interpretation and jurisdictional issues that might hinder its efficiency. While further government consultation was pending, key changes had already been made to the Ombudsman Act in 2005 and the report was never acted on. Additional powers relating to the oversight of immigration and detention were conferred on the Ombudsman around the same time.

Coinciding with the ACT Ombudsman's 15th anniversary, a shopfront for the ACT and the Commonwealth Ombudsman was opened in Farrell Place, Canberra in June 2004.
L-R Ombudsman John McMillan and ACT Chief Minister, Jon Stanhope MLA, officially opened the shopfront.

Ombudsman collection. Photograph by Irene Dowdy.

(L-R) The Inspector-General of Intelligence and Security (IGIS), Ian Carnell, and the Ombudsman, John McMillan, signed a memorandum of understanding in December 2005.

Amendments made to the *Migration Act 1958* in June 2005 gave the Ombudsman a statutory role to review the cases of and report to the immigration minister about people held in detention for more than two years, with follow-up reports provided at six monthly intervals if a person remained in detention. The Minister was required to table the Ombudsman's report and a response in Parliament.

The *Ombudsman Act 1976* was amended at the same time to confer the designation of Immigration Ombudsman. Provided with additional funding, the Commonwealth and Immigration Ombudsman took on extra responsibilities for oversight of the administration of complex and sensitive immigration and detention policies.

From the end of the twentieth century, the Ombudsman had become increasingly involved in immigration issues. Treatment of the large number of people being held in immigration detention attracted considerable public attention. An Ombudsman report into conditions and the treatment of detainees held in Immigration Detention Centres and state prisons in 2000–01 recommended that alternatives to detention should be found for families, women, children and individuals with special needs. Reporting on visits to the centres around that time, the Joint Standing Committee on Foreign Affairs and Trade noted the need for detainees to be able to make allegations of harsh or unfair treatment to appropriate independent persons. Intense media, public and political focus on immigration issues followed release of reports such as those in 2005–06 of an independent inquiry into the immigration detention of Ms Cornelia Rau, and the Ombudsman report on the immigration detention and removal from Australia of an Australian citizen, Ms Vivian Alvarez.

Ombudsman staff dealt with growing numbers of diverse and difficult matters, making regular visits (including some unannounced) to immigration detention facilities, observing enforcement and removal operations, and conducting major investigations – including into the internal complaint-handling system of the Department of Immigration and Multicultural Affairs. Challenges in promoting Ombudsman services to detainees included the remote location of many detention centres and the continually changing nature of the detainee population.

At the time of the Rau and Alvarez cases, the Government referred to the Ombudsman 247 individual cases of possible wrongful detention. The Ombudsman conducted an own motion investigation of these cases and reported on them in nine public reports. Office staff also became increasingly active in immigration oversight, participating in committees established to provide advice on wide-ranging issues pertaining to detention centres, and undertaking numerous own motion projects. One research project in which the Ombudsman had a major part examined the dilemmas faced by governments when non-citizens not eligible to remain in a country could not be removed without significant risk to their human rights or health.

2005

One change made to the Ombudsman Act in 2005 resolved a long-standing debate concerning jurisdiction over Commonwealth service providers. Two previous Ombudsmen had raised concerns that, with the increase in outsourcing of government functions, members of the public were being denied access to independent and impartial review of services. Both the Administrative Review Council and the Joint Committee of Public Accounts and Audit had considered the issue. Finally, the Ombudsman was given jurisdiction over non-government contractors engaged by government agencies to provide goods and services to the public on their behalf. This included the non-government contractors who managed immigration detention centres.

Another amendment to the Act in 2005 resolved a growing concern in some agencies that the voluntary provision of documents to the Ombudsman might breach laws to protect privacy, confidentiality and secrecy. Protections in the Act were stated to apply to information provided both voluntarily and in response to a formal demand by the Ombudsman.

When anti-terrorism legislation was developed, from 2001, the Ombudsman maintained an independent oversight role in relation to the rights of people taken into custody under preventative detention orders. Procedures were mandated for the Ombudsman to be informed when a person was taken into custody under a preventative detention order, in response to a perceived or imminent terrorist threat, and for that person to be advised of their right to complain to the Ombudsman.

A memorandum of understanding between the Ombudsman and the Inspector General of Intelligence and Security (IGIS), who held a similar oversight role in relation to security agencies, was signed in December 2005. Administrative protocols were established to facilitate cooperation between the Ombudsman and IGIS in discharging their oversight of policing and national security agencies.

2006

From October 2006, following changes made to the *Ombudsman Act 1976* in the previous year, the separate role of Postal Industry Ombudsman was conferred on the Commonwealth Ombudsman. The Postal Industry Ombudsman was given responsibility for handling complaints about both Australia Post and private sector postal service operators registered with the scheme.

Seventeen participants attended the first meeting of public sector and industry ombudsmen from Australia and New Zealand, hosted by the Commonwealth Ombudsman in June 2005.

2006

Further significant legislative change in 2005 resulted in the creation of a separate Law Enforcement Ombudsman. From 30 December 2006, in this role, the Commonwealth Ombudsman was given specific responsibility for reviewing the administration of the Australian Federal Police (AFP) handling of complaints, as well as investigating complaints about the conduct and practices of the AFP and its members.

Since 2001–02 the Ombudsman had been responsible for inspecting and reporting on the records of controlled operations by the AFP and the National Crime Authority (later the Australian Crime Commission). The first report on these activities was presented to the President of the Senate and the Speaker of the House of Representatives in December 2002. Following passage of the *Surveillance Devices Act 2004*, which came into operation in December 2004, the Ombudsman conducted initial inspections of the records of the Australian Crime Commission and the Australian Federal Police in relation to their use of surveillance devices in 2005. Monitoring of such records in other law enforcement agencies was subsequently added to the Ombudsman's responsibilities.

OMBUDSMAN OFFICE STAFF 2006–07

TOP: *Canberra Office.* **BOTTOM:** *Melbourne Office.*

TOP: *Adelaide Office, Perth Office.* **MIDDLE:** *Brisbane Office, Darwin Office Representative.* **BOTTOM:** *Sydney Office.*

SIGNIFICANT ANNIVERSARIES

On 1 July 2007, the Office of the Commonwealth Ombudsman commenced its fourth decade of operation. Several former Commonwealth Ombudsmen attended the celebratory cocktail function held at Old Parliament House. On the following day, at the same venue, the Ombudsman hosted a seminar entitled: *'Improving administration—the next 30 years: Complaint handling, investigation and good administration'*. Links to the papers presented at the seminar were placed on the Ombudsman's website. A special theme featuring the changes that had occurred in the office since its establishment was incorporated in the 30th Annual Report.

In the same year, the Taxation Ombudsman published a special report commemorating 30 years of taxation complaint-handling. A special publication recording 25 years of service of the Defence Force Ombudsman was published in December 2008.

Ombudsman John McMillan paid tribute in the 30th Annual Report to all the staff who had taken up the challenge to develop what had been a new idea into an energetic institution playing an essential and growing role in the system of government. He added:

> *It is a matter of pride for the Ombudsman's office that its stature and relevance has grown rather than diminished over thirty years. There was a pleasing mention of this point at a seminar in 2006 by Sir Anthony Mason, former Chief Justice of Australia and a member of the Commonwealth Administrative Review Committee that proposed the new system of Australian administrative law of which the Ombudsman is a part. Sir Anthony noted that 'Of the major reforms, the Ombudsman has perhaps been the most successful ... Ombudsmen have shown that it is possible to maintain good working relations with government departments without compromising independent decision making'.*
>
> *30th Annual Report 2006–07 p.viii*

At a function celebrating the 30th anniversary of the Ombudsman's office in July 2007.
(L-R) Ombudsman John McMillan with former Ombudsmen Ron McLeod, Philippa Smith, Alan Cameron and Dennis Pearce.

2007

In 2007–08 the office established the 'Dennis Pearce Top Performance in Administrative Law Prize' at the University of Canberra. Named after first ACT Ombudsman, Professor Dennis Pearce, the prize was to be awarded to the student who received the highest grade in the administrative law unit in the University of Canberra Law School.

2008

A new Indigenous Unit was established in the Ombudsman's office in 2007, to more effectively address issues facing indigenous communities in dealing with government. Its staff were located in Canberra and Darwin. Following the announcement of a package of changes to welfare provision, law enforcement, land tenure and other measures in the Northern Territory (the Northern Territory National Emergency Response (NTER)), the Ombudsman opened an office in Alice Springs. Located in the Centrepoint Building in Hartley Street from early in 2008, the Alice Springs office closed when the supplementary funding which had enabled its operation ceased. Escalation of outreach activity in the Northern Territory, through the office's presence and the work of the indigenous unit, resulted in a substantial increase in numbers of related complaints. Although its official responsibility for oversighting administration of programs under the NTER and other 'Closing the Gap' initiatives in the Northern Territory ended, the Ombudsman's expanded commitment to work in indigenous areas remained.

In 2011–12 the Ombudsman's office resumed agency arrangements with the Northern Territory and Tasmanian governments, which provided Commonwealth Ombudsman services in Darwin and Hobart respectively.

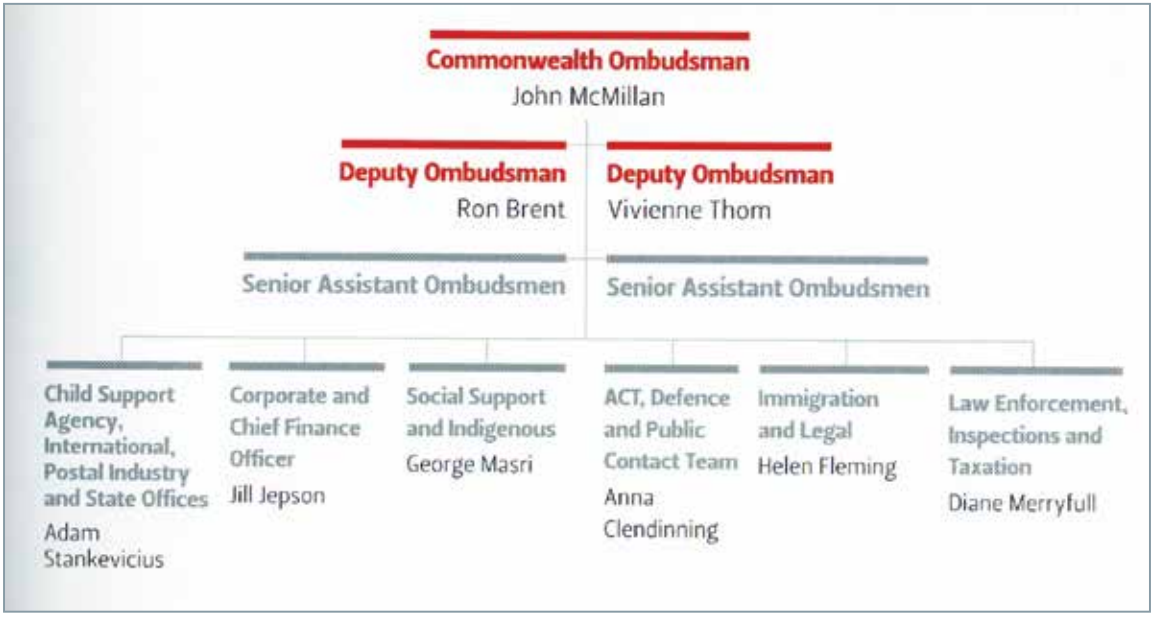
LEFT: Opening of the Commonwealth Ombudsman's office in Alice Springs in 2008.

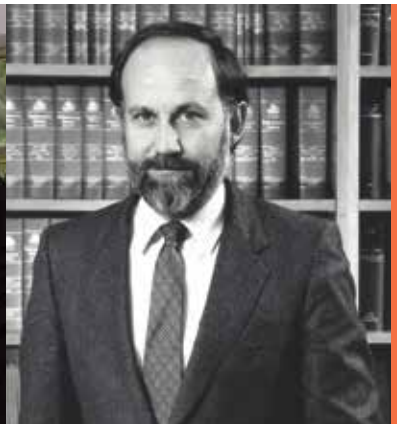
RIGHT: Deputy Ombudsman Ron Brent with renowned artist Romolo Tipiloura.

Senior management team, 2009.

L-R: Helen Fleming, Ron Brent, Diane Merryfull, Adam Stankevicius, John McMillan, Jill Jepson, Vivienne Thom, Anna Clendinning, George Masri.

Commonwealth OMBUDSMAN





LEFT: Anna Clendinning presented the Dennis Pearce Prize to Ivo Basoki, at the University of Canberra Faculty of Law Annual Prize Ceremony, 11 March 2010.

RIGHT: The 'Dennis Pearce Top Performance in Administrative Law Prize' at the University of Canberra was named in honour of former Commonwealth Ombudsman, and the first ACT Ombudsman, Professor Dennis Pearce AO FAAL.
Photograph courtesy of Dennis Pearce.

For six months from 30 December 2007, Ombudsman John McMillan was appointed on an acting basis as the first Integrity Commissioner. While he focused on setting up the new Australian Commission for Law Enforcement Integrity, Deputy Ombudsman, Dr Vivienne Thom, acted as Ombudsman in his place.
The first Ombudsman since Jack Richardson to have his term extended, John McMillan was reappointed for a further five years in March 2008. Still in office, in January 2010 he was made an Officer of the Order of Australia (AO) for his service to the law as Commonwealth Ombudsman, particularly in the areas of immigration and law enforcement, through leadership roles in professional bodies and as an academic.

Reform of freedom of information (FOI) laws was mooted from early in the decade, when a Senate committee considered a suggestion by a Member of Parliament that the Ombudsman should also be made the 'Freedom of Information Commissioner'. In March 2006, the Ombudsman reported on an investigation into the administration of the *Freedom of Information Act 1982* in government agencies. Surveying previous Australian studies of FOI laws, the report noted that there had been no response by government to many of the recommendations made in earlier studies, including the one by the Commonwealth Ombudsman in 1999.
A comprehensive overhaul of FOI laws was ultimately achieved in 2010. Aiming to increase public participation in government processes through improved community access to information, the *Freedom of Information Amendment (Reform) Act 2010* and associated legislation established the Office of the Australian Information Commissioner. The Office also included a new Freedom of Information Commissioner, and the existing Privacy Commissioner.
In a later development, the handling of complaints about actions taken by Australian Government agencies relating to FOI matters was transferred back to the Ombudsman's office from 1 January 2015. However, from 1 July 2016 the Office of the Australian Information Commissioner resumed the investigation of these complaints.

2009

During 2008–09, the Ombudsman's office started a new compliance auditing role for the Australian Quarantine and Inspection Service (AQIS).

2010

John McMillan was appointed as the inaugural Australian Information Commissioner, and left the Ombudsman's office in March 2010. During his term the office had been revitalised through the implementation of new structures, upgraded case management and reporting systems and improved processes for handling its continuously expanding workload.

There was a complete changeover of the executive team following the Ombudsman's departure. In April 2010, Deputy Ombudsman Vivienne Thom left to become Inspector-General of Intelligence and Security. Pending his retirement in mid-2010, the other Deputy Ombudsman, Ron Brent, acted as Ombudsman until a new appointment could be made, with various others acting Deputy Ombudsman at different times. It was an unsettled period, with the national office staff moving into new accommodation on Level 5 of 14 Childers Street in Canberra during the year.

Veteran consumer advocate, Allan Asher was appointed as the eighth Commonwealth Ombudsman on 30 August 2010.

On 16 June 2010, the new office of the Commonwealth and ACT Ombudsman was officially opened by the Special Minister of State, Senator Joe Ludwig, with the Director-General of the ACT Justice and Community Safety Directorate, Kathy Leigh.

(L-R) Acting Ombudsman Ron Brent, Senator Joe Ludwig, and Ombudsman and Australian Information Commissioner-designate, John McMillan, at the opening of the office at 14 Childers Street, Canberra.

ALLAN JAMES ASHER

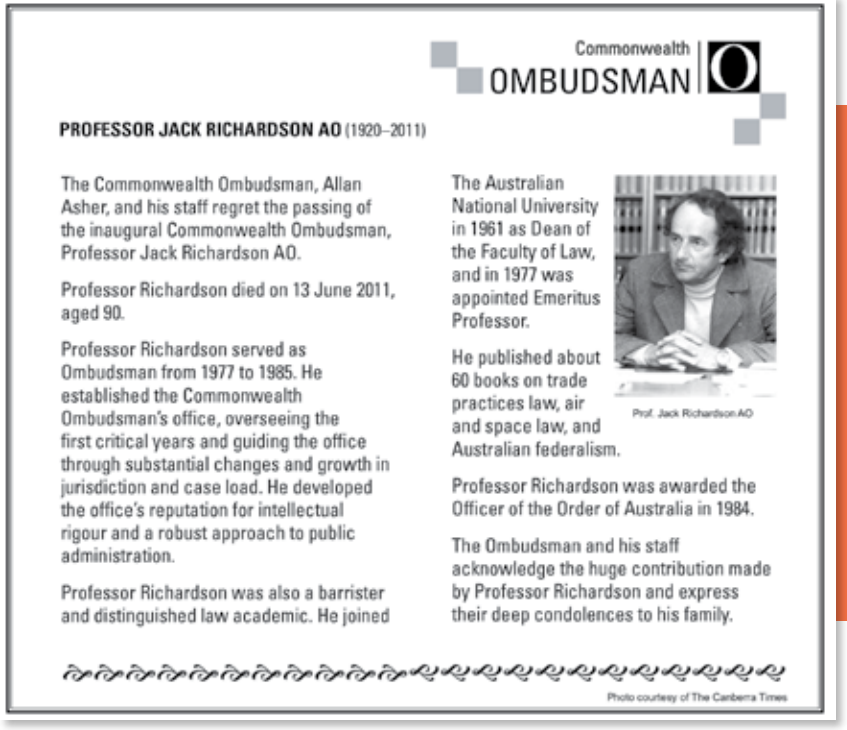
Ombudsman 30 August 2010 – 28 October 2011

Born 16 February 1951 at Randwick, NSW. Attended schools in regional NSW, Eastern Creek, and Rooty Hill. Higher School Certificate, Sydney Technical College 1970. Studied commerce at university of NSW 1971–73 while working for chartered accountants and as a credit analyst. From 1975–85 became an executive at the Australian Consumers' Association (*Choice* magazine). Completed Barristers Admission Board. Admitted as barrister and solicitor NSW 1987, Australian Capital Territory 1988 and to the High Court 1998. Appointed Director of Corporate Affairs, Overseas Telecommunications Commission 1984. Appointed as Commissioner of Trade Practices Commission 1988, subsequently Deputy Chair Australian Consumer and Competition Commission 1995–2000. Lived in London 2000–08. Worked as Campaigns Director with the Consumers' Association (*Which?* magazine) 2001–03, and for Consumers International 2000–01. Board member of the Office of Fair Trading and CEO of Energy Watch 2003–08, pursuing a fairer deal for vulnerable people while protecting consumer rights in a deregulated market. An outspoken consumer advocate over four decades, at various times chaired the: International Network of Civil Society Organisations on Competition; International Society of Consumer and Competition Officials and OECD Consumer Policy Committee. Returning to Australia, became chief executive of Australian Communications Consumer Action Network 2009.

Appointed Ombudsman from 30 August 2010. Focused on communicating with, and improving the lot of, the most disadvantaged complainants. In contentious circumstances, arising from his concerns about administration of detention centres and insufficient funding of the Ombudsman's functions, resigned in October 2011. Continued consultancy, membership of consumer organisations and promoting the rights of refugees. Chair, Foundation for Effective Markets, and Governance 2008– and Therapeutic Goods Administration Consumer Complaints Panel 2012–. Visiting Fellow, Regulatory Institutions Network, Australian National University 2012–. Board member, Australian Consumers Association 2013–16. Consumer Consultant to the United Nations Conference on Trade and Development 2014–, ASEAN, and Australia Indonesia Program for Economic Governance 2016–.

One priority during Ombudsman Allan Asher's term was the revision of agency complaint-handling systems aimed at promoting social justice for members of the community with language or cognitive disabilities, those in remote areas and those suffering from poverty or alienation from the system. Government agencies were also encouraged to revise their written and spoken language to better communicate with the public.

Endeavouring to raise public awareness of its role and improve public administration, the Ombudsman's office was continuously engaged in reporting on investigations, participating in collaborative projects with various agencies and presenting or publishing papers in wide-ranging forums. Examples in the first decade of the century included: working with other agencies to produce the *Automated Assistance in Administrative Decision-making Better Practice Guide* (2006–07); broad dissemination of ten management lessons learned from a major immigration investigation completed in August 2007; publication of a *Better Practice Guide to Complaint Handling* in April 2009, and a companion *Better Practice Guide to Managing Unreasonable Complainant Conduct* later that year.



Commonwealth OMBUDSMAN

PROFESSOR JACK RICHARDSON AO (1920–2011)

The Commonwealth Ombudsman, Allan Asher, and his staff regret the passing of the inaugural Commonwealth Ombudsman, Professor Jack Richardson AO.

Professor Richardson died on 13 June 2011, aged 90.

Professor Richardson served as Ombudsman from 1977 to 1985. He established the Commonwealth Ombudsman's office, overseeing the first critical years and guiding the office through substantial changes and growth in jurisdiction and case load. He developed the office's reputation for intellectual rigour and a robust approach to public administration.

Professor Richardson was also a barrister and distinguished law academic. He joined The Australian National University in 1961 as Dean of the Faculty of Law, and in 1977 was appointed Emeritus Professor.

He published about 60 books on trade practices law, air and space law, and Australian federalism.

Prof. Jack Richardson AO

Professor Richardson was awarded the Officer of the Order of Australia in 1984.

The Ombudsman and his staff acknowledge the huge contribution made by Professor Richardson and express their deep condolences to his family.

Photo courtesy of The Canberra Times

The Canberra Times, 24 June 2011, p.2

2011

From 9 April 2011 the Commonwealth Ombudsman gained a new role as Overseas Students Ombudsman. Reporting in February 2010, the Review of the *Education Services for Overseas Students Act 2000* (Baird Review) had found that overseas students studying with private education providers in Australia were particularly vulnerable, and would benefit from access to a statutorily independent complaint-handling body such as the Ombudsman. Following the necessary amendment to the *Ombudsman Act 1976*, the Overseas Students Ombudsman took on responsibility for investigating complaints about problems with private education and training encountered by current or intending overseas students. The role also involved working with private education providers and peak bodies to promote best practice complaint-handling, and to resolve systemic issues within the sector.

Seeking to draw greater attention than that achieved by conventional means to his concerns about funding for the Ombudsman's office, and about the plight of asylum seekers in detention centres, Ombudsman Allan Asher provided questions for a non-government senator to ask him at a Senate Estimates Committee hearing in May 2011. Under intense pressure in the political and media furore ensuing from this unorthodox approach, he resigned on 28 October 2011. Subsequently publicly acknowledging his regret about taking this action, and at losing the opportunity to continue his work as Ombudsman, he expressed the hope that the incident would at least serve to focus attention on the need for adequate resourcing of the office.

Acting as Ombudsman for the next ten months, Alison Larkins submitted the Annual Report for 2010–11 and signed off on the report prepared for 2011–12.

Shedding staff in the face of stringent resource restrictions during this period, the office continued to be assigned new functions. From 1 June 2012 it was made responsible for oversighting use of coercive examination powers by Fair Work Building and Construction (the agency then responsible for enforcing industrial relations laws in Australia's building and construction industry).

In June 2012 the Defence Force Ombudsman finalised a Memorandum of Understanding formalising a new role in investigating complaints about aircraft noise arising from the Super Hornets' operations at the Royal Australian Air Force (RAAF) base at Amberley, in Queensland.

Equipped through its daily interaction with and working knowledge of agencies' processes, systems and governance arrangements to contribute a valuable and unique perspective on corruption risks, in 2011–12 the Ombudsman's office assisted with worked aimed at developing Australia's first National Anti Corruption Plan.

2012

A senior leader of wide-ranging public agencies, most recently the Financial Ombudsman Service, Colin Neave AM was appointed as the ninth Commonwealth Ombudsman for a five-year term from 17 September 2012.

COLIN ROBERT NEAVE AM

Ombudsman 17 September 2012 – 13 January 2017

Born on 1 December 1943 in Armadale, Victoria. Educated Brighton Grammar School. Studied at Australian National University Law School 1962. Graduated LLB University of Melbourne 1965. Articles Herbert Turner & Son 1966. Admitted to practise Supreme Court of Victoria and High Court 1967, later Supreme Court of NSW 1993. In private practice until 1982. First Manager Legal, later Company Secretary, AMI Toyota Ltd 1982–87. Several voluntary positions for Anglican Church included Council Member, then Chair, St Michael's Grammar School St Kilda 1972–87. Director-General Department of Public and Consumer Affairs South Australia 1987–90. Concurrently a member of the Government Management Board and Coordinator of South Australia's Multifunction Polis ('smart city') project. Secretary Attorney-General's Department Victoria 1990–92 – included major work on new regulatory regime for building societies. Managing Director of the Legal Aid Commission of NSW 1993–94. Member of Commonwealth Access to Justice Advisory Committee 1994, which recommended measures to make the legal system more accessible, efficient, effective and fair. Deputy Secretary, Commonwealth Attorney-General's Department 1994–95, involved in implementing the Access to Justice action plan.

Appointed Banking Industry Ombudsman February 1996. Part-time Chair Commonwealth Consumer Affairs Advisory Council 1997–2012. Made a Member of Order of Australia (AM) June 2005 for service to public administration and the banking and finance industry, particularly through dispute resolution. Chaired Legal Services Board of Victoria 2005–12. Following the merger of banking, financial industry and insurance ombudsmen from 1 July 2008, was appointed inaugural Chief Ombudsman, Financial Ombudsman Service. President Administrative Review Council 2010–12. Member then Vice-Chair Australian Press Council 2010–12. Voluntary roles including Board Chair, Pentland Foundation 2009–, Debt Repayment Service Ltd 2010– and Stagemaster Inc (Street Theatre, Canberra) 2014–. Appointed Commonwealth Ombudsman from 17 September 2012. Resigned 13 January 2017. Appointed Customer Fairness Advisor, Australia and New Zealand Banking Group 16 January 2017.

PATIENCE PAYS

When the Office of the Commonwealth Ombudsman was recruiting its first staff in late 1976, Colin Neave applied for a job. Confronted at interview with a series of public-service specific questions in areas he was not familiar with, and asked for his views on the whole administrative law package, he did not excel. Leaving the interview, he encountered a long-time family friend, the Ombudsman-designate, Professor Jack Richardson. Telling Colin that he would probably not get the job he had applied for, Jack consoled him with the notion that there might be work for him in the Ombudsman's office at some stage in the future. It was a long wait for Colin. Thirty-six years later, in September 2012, he was appointed as the ninth Commonwealth Ombudsman.

Colin Neave, oral history, 30 November 2016

Commonwealth Ombudsman Colin Neave and staff met with representatives from the local indigenous communities in Cusco, Peru in May 2013.

2011

Involved in international forums through participation in conferences, seminars and reciprocal visits with numerous countries, the office also continued its work facilitating the exchange of specialist advice, training, technical assistance and support to Ombudsman offices in the Pacific.

Moving somewhat further afield, in 2011 the office received funding from AusAID to conduct a similar program to develop links with the Defensoria del Pueblo in Peru.

2014

The Public Interest Disclosure (PID) Scheme began operating on 15 January 2014. Established under the *Public Interest Disclosure Act 2013*, it provided a mechanism for officials of Australian Government agencies to report suspected wrongdoing, giving them protections from reprisal and requiring agencies to respond to disclosures with appropriate action. The Ombudsman's office was made responsible for promoting awareness and understanding of the Act and monitoring its operation.

Since 1998, when public service regulations (applying only to officials employed under the *Public Service Act 1922*) were amended to provide some protection for 'whistleblowers', the government had been considering the implementation of a broader scheme. During 2005–06, the Ombudsman's office worked with the Merit Protection Commissioner surveying government agencies and employees on practices and procedures in relation to whistleblowers. Office staff were also involved in various research activities during the decade, including the national *Whistling While They Work* project.

Authored by Peter Roberts (Charles Sturt University), A J Brown (Griffith University) and Jane Olsen (NSW Ombudsman's Office), *Whistling While They Work: A good-practice guide for managing internal reporting of wrongdoing in public sector organisations* was launched at Parliament House on 12 October 2011. The event was hosted by the Commonwealth Ombudsman, Allan Asher, with the Chairman of the Joint Parliamentary Committee of Public Accounts and Audit, Rob Oakeshott MP. Launched by Professor Allan Fels AO, the book represented the culmination of a six-year national research project into whistleblowing in the Australian public sector. Led by Griffith University, the project involved 14 partner organisations, including the Commonwealth Ombudsman's office.

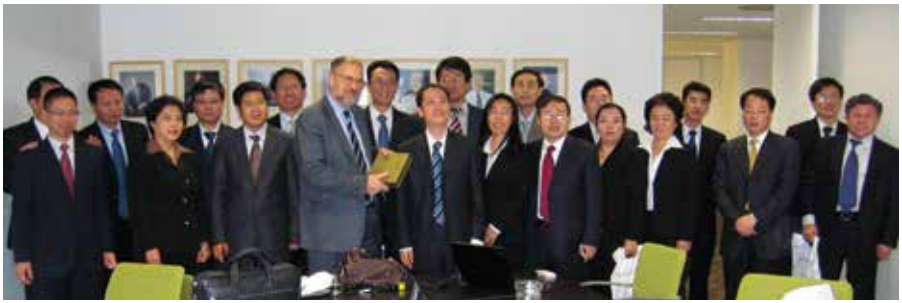
(L-R) Professor Alan Fels AO, Ombudsman Allan Asher, Rob Oakeshott MP, Professor A J Brown, Peter Roberts, Jane Olsen.

INTERNATIONAL ENGAGEMENT

TOP LEFT: Commonwealth Ombudsman's Asia-Pacific regional engagement 2015–2016.

TOP RIGHT: Ombudsman Ron McLeod with a delegation from Indonesia, 2001–02.

LEFT: (L-R) Sina Hutton and Michael Woodhead with the Samoan Attorney-General, Aumua Ming Lueng Wai, during a support visit to the Samoan Ombudsman in December 2012. One special connection between the office and Samoa was that the inaugural Commonwealth Ombudsman, Jack Richardson, also served as the first Ombudsman of Western Samoa from 1990 to 1992.



TOP LEFT: Ombudsman Colin Neave presented a paper at the Conference of the International Network of Financial Services Ombudsman Schemes in Taipei in September 2013.

TOP CENTRE: Ombudsman Dadan Suparjo Suharmawijaya, Diah Suryaningrum, Winarso, Erica Welton, Rodney Lee Walsh, Lisa Collett and Patnuaji Indrarto visited the Magistrates Court in Canberra in October 2016, as part of the Office of the Commonwealth Ombudsman's partnership program with Ombudsman Republik Indonesia.

TOP RIGHT: Carolyn Langley with Marshall Islands Auditor-General, Junior Patrick, 2011–12.

MIDDLE LEFT: Jeannine Daniel (The Cook Islands), Joanita Silvira da Costa (Timor-Leste), Haser Hainrick (Federated States of Micronesia) and Linda Folaumoetu'i (Tonga) at the Australasian and Pacific Ombudsman Region meeting hosted by the Commonwealth Ombudsman in Melbourne, 4 May 2016.

MIDDLE CENTRE: Pacific Ombudsman Alliance meeting, Wellington, New Zealand 2012.

MIDDLE RIGHT: Helen Ford conducting training in Kiribati in 2013.

BOTTOM LEFT: Chinese delegation in Canberra, with Ombudsman Allan Asher, October 2010.

BOTTOM RIGHT: Palau Ombudsman Francis Llecholch with Matt Lemm at the Office of the Palau Ombudsman, July 2015.

Private Health Insurance Ombudsman Samantha Gavel (centre) and staff, prior to the merger with the Office of the Commonwealth Ombudsman, Sydney 2014.

Photograph courtesy of PHIO.

2015

Shortly after passage of the *Private Health Insurance Amendment Act 2015* in May 2015, the functions of the Private Health Insurance Ombudsman (PHIO) were merged with those of the Commonwealth Ombudsman. From 1 July 2015, as PHIO the Ombudsman became responsible for protecting the interests of private health insurance consumers, including health fund members, health funds, private hospitals or medical practitioners. This work involved dispute resolution, identifying systemic issues within the practices of private health funds, and providing advice and recommendations to Government and industry. Achieved commendably smoothly, the transition was followed by a 60 per cent increase in complaints to the PHIO in the next financial year.

For a short period, the Commonwealth Ombudsman was designated as the Norfolk Island Ombudsman. Mooted in discussions between the federal government and the Norfolk Island Legislative Assembly from 2003–04, the arrangement was enabled by the passage of legislation in the Assembly in August 2012. After collaborative preparation, the specialist role came into effect from 19 December 2014, but ceased on 1 July 2016 as part of a staged process of ending self-government on Norfolk Island. The Commonwealth Ombudsman continued to exercise general jurisdiction over agencies on Norfolk Island.

On 1 May 2015 the Commonwealth Ombudsman ceased performing the role of Taxation Ombudsman. The handling of taxation-related complaints became the responsibility of the Inspector-General of Taxation.

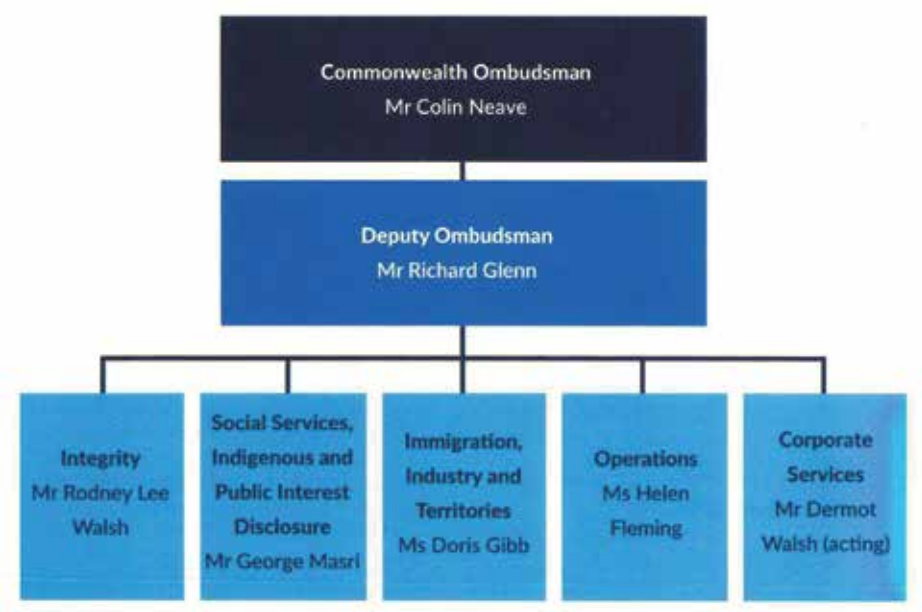
Bringing to a close a 20-year collaborative working partnership, the Ombudsman's office and the Office of the Inspector-General of Taxation worked together to ensure a smooth transition of responsibility. Recognising the achievements of his predecessors and the office staff in performing the Taxation Ombudsman role – created in 1995 to increase the focus on investigating complaints about the Australian Taxation Office (ATO) – the Ombudsman noted that many thousands of ordinary taxpayers had been assisted with their complaints about the ATO in that time. The Ombudsman's office and the ATO had also worked together to significantly improve the effectiveness of the ATO's own complaint-handling capacity.

Senior management team, 2013.

L-R: Doris Gibb, George Masri (Acting Deputy Ombudsman), Colin Neave (Ombudsman), Lynette MacLean, Helen Fleming, Rodney Lee Walsh

BELOW: Executive and Senior Management structure at 30 June 2016.

COMMONWEALTH OMBUDSMAN



2015

In April 2015 Parliament passed a range of amendments to the *Telecommunications (Interception and Access) Act 1979* (TIA Act), addressing the retention of data by telecommunications providers and law enforcement agencies' access to that data. The amendments, which came into effect on 13 October that year, included a substantial new function for the Ombudsman. Responsibilities for oversighting law enforcement agency compliance with the new data retention regime strengthened the office's already significant role as part of the Commonwealth's integrity framework.

2016

In May 2016 the Ombudsman's office convened its first Disability Complaint-Handling Forum. This brought together representatives of Australian, state and territory government agencies, oversight agencies and peak disability bodies to discuss how best to encourage, receive and handle complaints from people with disability. Subsequent work involved the coordination of a number of working groups for government and non-government agencies to foster continued learning and collaboration in this area.

Functions of the Defence Force Ombudsman (DFO) were expanded by a regulation made under the *Ombudsman Act 1976*, on 1 September 2016. This resulted from the work of a taskforce established in November 2012 to assist complainants who had suffered forms of abuse, harassment or bullying in Defence prior to 11 April 2011. In its final report on the support and outcomes provided to eligible complainants, on 31 August 2016, the taskforce recommended that the Defence Force Ombudsman should be made responsible for its legacy work. Complementing the cultural change strategy being implemented in Defence by instituting an additional independent complaints process, the regulation broadened the DFO's oversight role to enable it to take appropriate action to respond to reports of abuse in defence.

In February 2017, a Legal and Information Access Team was formed within the Ombudsman's office. Recognising the increased legal work inherent in the DFO's new role, it combined existing legal services teams to allow a greater depth of practice for legal staff and to provide holistic legal services across the office.

LOOKING AHEAD

The Office of the Commonwealth Ombudsman will celebrate its 40th anniversary in 2017.

This will provide us with the opportunity to reflect on our achievements and the challenges ahead.

Undoubtedly, we must be willing to take on new responsibilities to ensure the office remains as relevant to the pursuit of good administration in the future as it has been in the past. The successful implementation of two new functions this year show our capacity to adapt and grow in response to changes in the needs of citizens and governments.

I look forward to working with our dedicated and professional staff, and the agencies and private sector bodies we oversight, to advance the strategic vision of the office.

That is, to provide assurance that the Australian Government entities and prescribed private sector organisations we oversight act with integrity and treat people fairly. And to influence enduring systemic improvement in public administration in Australia and the region.

Ombudsman Colin Neave 39th Annual Report, 2015–16 p.13

EVOLUTION 1977 – 2017

At its establishment on 1 July 1977, the Office of the Commonwealth Ombudsman had two statutory functions, conferred by the *Ombudsman Act 1976*. Both directed at safeguarding the community in their dealings with Australian government, these were: to investigate complaints from individuals, groups or organisations about the administrative actions of government officials and agencies; and to undertake investigations of Commonwealth administrative action on an 'own motion' basis.

Complaints originally had to be in writing, were not allowed to be anonymous, and needed to demonstrate a complainant's sufficient interest in the issue being complained about. An amendment to the Ombudsman Act in 1983 confirmed what had quickly become an established practice of dealing with oral complaints, enabling their resolution in an informal and timely manner, without the need in most cases to invoke formal investigation processes. With an ever-increasing volume of complaints, the substantial majority of which began to be received orally, the ability to handle these less formally enhanced the office's capacity to investigate more complex complaints and to deal with systemic issues.

The Ombudsman was empowered to recommend remedial action, specifically in individual cases or generally by a change to legislation or administrative policies or procedures. There was no provision to override agency decisions, or to issue directions to their staff. Disputes were to be resolved through consultation, persuasion and negotiation or, if necessary, by making formal recommendations to the Prime Minster or to the Parliament.

Provided with the power to undertake an own motion investigation without having to receive a complaint, the Ombudsman was given a crucial tool through which to influence improvements in public administration and generally contribute to good governance. Noting that the power was 'one of considerable potential', Ombudsman Jack Richardson reported that he had been too busy organising the office and dealing with the volume of complaints to instigate any such inquiries in his first year of operation. Own motion investigations into general administrative problems or systemic difficulties in agencies were frequently conducted by successive Ombudsmen in the years that followed. After an amendment to the Ombudsman Act in 1983 gave authority to the Ombudsman to release information in the public interest, reports on these and other investigations were able to be published. Even wider dissemination of their valuable findings was achieved with continuous advances in technology.

From the start, the Ombudsman's office worked cooperatively with agencies to resolve any issues of jurisdiction or systemic problems. Arrangements about processes which would be used to contact agencies, and about the level of interaction which should be accorded to various types of complaints, were carefully worked through on an individual basis. As the Ombudsman earned the trust of both complainants and administrators, agencies began to recognise Ombudsman review as a valuable indicator of performance. Paying close attention to working relationships with other oversight bodies, especially where areas of jurisdiction were likely to cross, the Ombudsman's office maintained its proactive engagement with all stakeholders through participation in various forums, seminars and research projects.

Deficient complaint-handling processes and procedures within agencies was a recurring issue in Ombudsman investigations. As well as sharing information about the problems encountered and remedies recommended, the Ombudsman's office gave proactive assistance to agencies through helping to arrange training for staff, improving complaint forms and reviewing complaint management and quality assurance mechanisms. Continually supporting the development of professional complaint-handling in government agencies, the Ombudsman published a number of better-practice guides and assisted with the development of agency service charters which provided public statements of service delivery commitments to the community. Over time, improvements in agencies' internal complaint-handling enabled the Ombudsman's office to concentrate on more serious or complex complaints, and to focus on identifying unreasonable, unjust, oppressive or improperly discriminatory practices in public administration.

Between 1977 and 2017 the role of the Ombudsman evolved substantially, without losing sight of its traditional charter. Constant adaptation, development and maturation of office structures and work processes occurred with the expansion in range and complexity of government functions. Jurisdictional changes over 40 years reflected the evolving nature of public administration, including moves towards corporatisation, privatisation and contracting-out of government functions and service delivery. Government's increasing reliance on executive rather than statutory power to underpin programs as diverse as the management of immigration detention centres, payment of lost redundancy entitlements, work referral for job seekers or provision of disaster relief altered the nature of complaints and investigations. Changes in legislation, agency functions, technology, work practices, economic circumstances and social factors all impacted on the Ombudsman's work.

Being a national office established in a federal system of government, covering a vast geographical area and at all times handling a high volume of complaints posed certain challenges for the Commonwealth Ombudsman. Responding by developing a flexible national office structure, employing staff with diverse skills, maintaining a strong training program, implementing a sophisticated complaint management system and developing an invaluable historical perspective based on long and broad-ranging experience, the office positioned itself to be able to readily accept and discharge new specialist functions.

By 2017, the Commonwealth Ombudsman held not only a generalist jurisdiction, but a cluster of specialist roles. Conferring of additional responsibilities, requiring specialist understanding and expertise in specific areas of government coming under the spotlight of public accountability at various stages, resulted in the Commonwealth Ombudsman also being the Defence Force Ombudsman (from 1983), Immigration Ombudsman (from 2005), Postal Industry Ombudsman (from 2006), Law Enforcement Ombudsman (from 2006), Overseas Students Ombudsman (from 2011) and Private Health Insurance Ombudsman (from 2015). With the introduction of ACT self-government in 1989, the Commonwealth Ombudsman was designated as the ACT Ombudsman. Before the introduction of the Telecommunications Industry Ombudsman (TIO) Scheme in 1993, the Ombudsman handled large numbers of complaints concerning telecommunications. For twenty years from 1995 until 2015, the Commonwealth Ombudsman was also the Taxation Ombudsman. Arrangements for the Commonwealth Ombudsman to hold a specialist role as Norfolk Island Ombudsman were in place between 19 December 2014 and 1 July 2016.

In line with these changes, in 2015–16 the Ombudsman reported on six major statutory functions. As well as managing the traditional, but expanded, functions of complaint and own motion investigations the Ombudsman was also responsible for compliance auditing relating to records of law enforcement agencies, oversight of aspects of immigration detention and of the Commonwealth Public Interest Disclosure scheme, and for carrying out a range of work in relation to the Private Health Insurance Ombudsman responsibilities. These functions formed the basis of key performance indicators, to measure and account for the performance of the office.

Meeting of heads of integrity agencies with members of the Joint Committee of Public Accounts and Audit, 26 June 2013.

Standing (L-R): James Popple (FOI Commissioner), John McMillan (Australian Information Commissioner), Colin Neave (Ombudsman), Ian McPhee (Auditor-General).

Seated (L-R): Josh Frydenberg MP, Rob Oakeshott MP, Senator Anne Ruston.

Photograph courtesy of the Australian Parliament.

2017

Colin Neave resigned as Ombudsman on 13 January 2017, to take up the newly-created position of Customer Fairness Advisor with the Australia and New Zealand (ANZ) Banking Group.

Richard Glenn was appointed as Acting Ombudsman from 14 January to 13 April 2017.

On 9 February 2017 the Australian Government announced its decision to ratify the United Nations *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT). Ratification involved establishing a mandatory international inspection and reporting regime for Australia's prisons and immigration detention centres. This included setting up a 'national preventive mechanism' (NPM) network to enable monitoring of prisons and detention centres by independent inspecting bodies. The position of NPM Coordinator, working in a facilitative and collaborative fashion with the various Commonwealth, state and territory agencies involved, was to be established within the Office of the Commonwealth Ombudsman, with work in the role to commence on 1 July 2018.

Through the years, civic-minded staff of the Ombudsman's office gave whole-hearted support to numerous charitable causes. Fund-raising efforts involved them in activities as diverse as collecting hampers for the homeless or gifts for Christmas 'giving trees', baking, holding large morning teas, wearing purple clothes or coloured ribbons, dragon-boat racing and running around the lake in Canberra or through Stromlo Forest.

BOTTOM LEFT: The morning after. Two senior staff of the Ombudsman's office participated in the St Vincent de Paul CEO Sleepout in Canberra on 23 June 2016. L-R: Dermot Walsh, Governor-General Sir Peter Cosgrove AK MC, Doris Gibb.

OMBUDSMAN OFFICE STAFF 2017





TOP: *Brisbane, Perth, Sydney.* **MIDDLE:** *Canberra.* **BOTTOM:** *Adelaide, Melbourne.*

OMBUDSMAN APPOINTMENTS 1977–2017

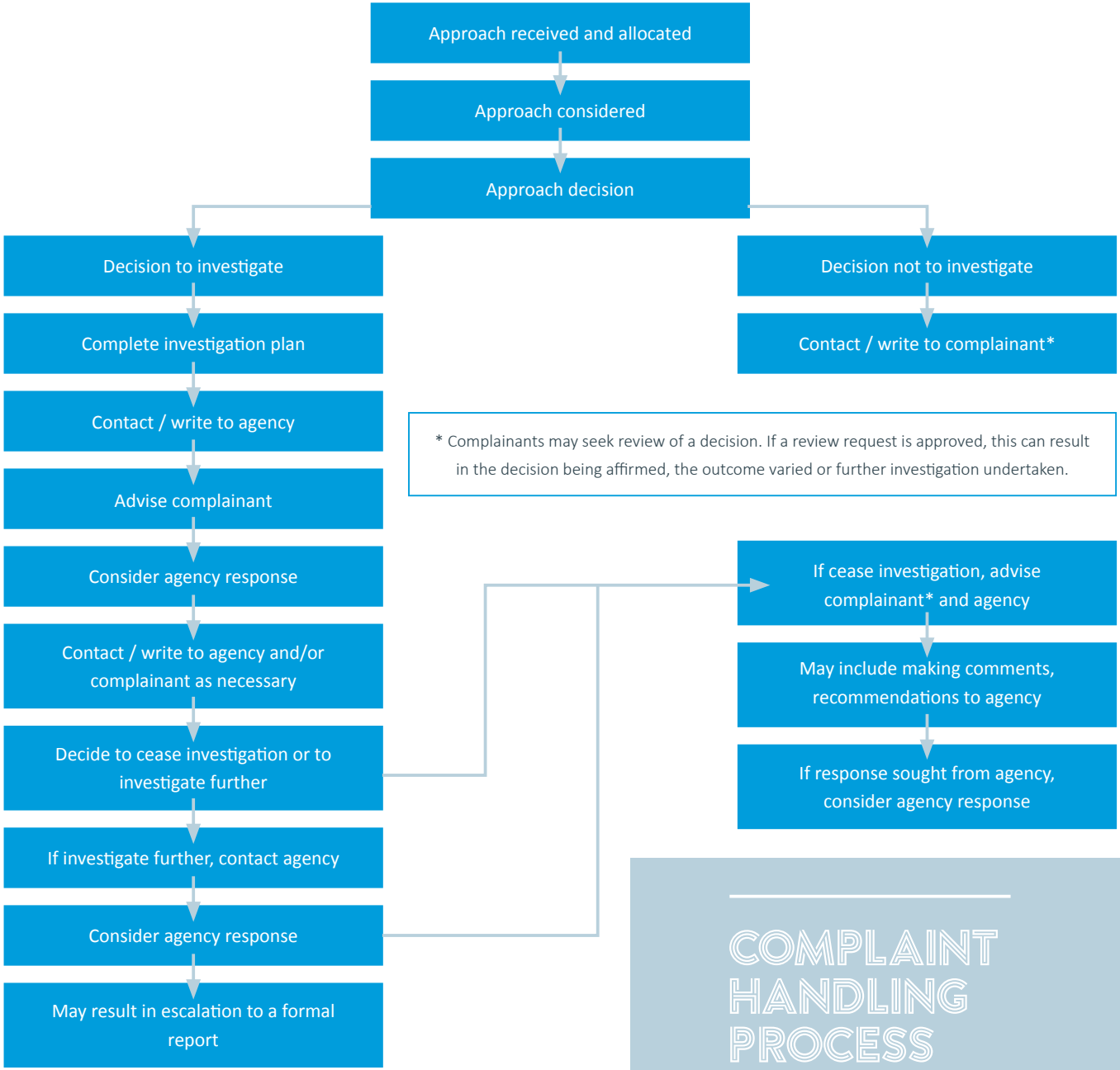
YEAR	Minister responsible for administration of the *Ombudsman Act 1976*	Ombudsman	Deputy Ombudsman (tenure indicative only)
1977-78	Prime Minister - **Malcolm Fraser**	**Jack Richardson** (1.7.1977—23.9.1985)	**Kevin Crotty** (5.9.1977—4.1980) **Don Emerton** (3.4.1978—2.4.1983)
1978-79			
1979-80			
1980-81			**Alan Kerr** (9.1980—4.1985)
1981-82	Prime Minister - **Bob Hawke**		
1982-83			**Chris Hunt** (1983—3.1987)
1983-84			**Sam Jordan** - DO (Defence Force) (1.1984—10.7.1987)
1984-85			**Bill Blick** (1985—3.1987)
1985-86		**Sam Jordan** (Acting)	
1986-87		**Geoff Kolts** (1.7.1986—31.10.1987)	**Lindsay Shaw** (13.4.1987—18.4.1994) **Kevin Sainsbury** (1987—11.5.1988) **Roy Frost** - DO (Defence Force) (1987—8.7.1992)
1987-88		**Kevin Sainsbury** (Acting) **Dennis Pearce** (1.2.1988—31.1.1991)	**Robin Bell** (4.7.1988—11.1991)
1988-89			
1989-90			
1990-91		**Lindsay Shaw** (Acting) **Alan Cameron** (1.4.1991—31.12.1992)	
1991-92	Prime Minister - **Paul Keating**		
1992-93		**Lindsay Shaw** (Acting) **Philippa Smith** (17.05.1993—6.2.1998)	**Richard Mills** - DO (Defence Force) (20.7.1992—15.7.1997)
1993-94			**John Wood** (22.6.1994—21.6.1999) **Mary Perrett** (22.6.1994—21.6.1995)
1994-95			
1995-96	Prime Minister - **John Howard**		
1996-97			

YEAR	Minister responsible for administration of the *Ombudsman Act 1976*	Ombudsman	Deputy Ombudsman (tenure indicative only)
1997-98	Prime Minister - **John Howard**	**Ron McLeod** (18.2.1998—28.2.2003)	
1998-99			
1999-2000			**Oliver Winder** (1999—1.2003)
2000-01			
2001-02			
2002-03		**John McMillan** (3.3.2003—3.6.2010)	**Ron Brent** (2.6.2003—29.8.2010)
2003-04			
2004-05			
2005-06			**Vivienne Thom** (1.3.2006—14.4.2010)
2006-07			
2007-08	Prime Minister - **Kevin Rudd**		
2008-09	Cabinet Secretary and Special Minister of State - **Joe Ludwig**		
2009-10	Special Minister of State for the Public Service and Integrity, and Special Minister of State - **Gary Gray**	**Vivienne Thom** (Acting) **Ron Brent** (Acting)	
2010-11		**Allan Asher** (30.08.2010—28.10.2011) **Alison Larkins** (Acting)	**Alison Larkins** (17.3.2011—21.11.2012)
2011-12		**Colin Neave** (17.9.2012—13.1.2017)	
2012-13	Prime Minister - **Tony Abbott**		
2013-14			**Richard Glenn** (02.09.2013—25.04.2017)
2014-15	Prime Minister - **Malcolm Turnbull**		
2015-16			
2016-17		**Richard Glenn** (Acting)	

COMPLAINT NUMBERS AND STAFFING

YEAR	WRITTEN COMPLAINTS	ORAL COMPLAINTS	TOTAL COMPLAINTS	STAFF
77-78	2656	2656	5312	32
78-79	2680	5000	7680	44
79-80	2646	8535	11181	44
80-81	2824	9048	11872	45
81-82	2558	9722	12280	50
82-83	2887	10451	13338	55
83-84	3053	12485	15538	60
84-85	3339	16084	19423	67
85-86	3732	17339	21071	68
86-87	3269	12188	15457	69
87-88	3561	14896	18457	70
88-89	3694	14141	17835	68
89-90	4062	7826	11888	71
90-91	4068	10173	14241	72
91-92	5167	11986	17153	76
92-93	5180	11053	16233	82
93-94	4292	11159	15451	75
94-95	4565	12445	17010	94
95-96	4694	17055	21749	97
96-97	4440	21436	25876	88

YEAR	WRITTEN COMPLAINTS	ORAL COMPLAINTS	TOTAL COMPLAINTS	STAFF
97-98	3853	17655	21508	82
98-99	4340	18861	23201	85
99-00	3710	16789	20499	81
00-01	3828	18271	22099	88
01-02	4033	15582	19615	88
02-03	3735	16159	19894	82
03-04	3652	13860	17512	92
04-05	3478	13822	17300	116
05-06	4352	13981	18333	146
06-07	5001	14416	19417	146
07-08	5696	15071	20767	165
08-09	6022	14623	20645	171
09-10	6187	12905	19092	159
10-11	7513	13482	20995	182
11-12	9490	15254	24744	149
12-13	8128	10591	18719	159
13-14	7669	10767	18436	156
14-15	9138	12668	21806	150
15-16	10631	13475	24106	150



COMPLAINT HANDLING PROCESS

REFERENCE MATERIAL

From a comprehensive collection of information relating to the Office of the Commonwealth Ombudsman, individual Ombudsmen, and the development of Australian administrative law, the following material was particularly relevant to the preparation of this book.

Access to Justice Advisory Committee, *Access to Justice: an action plan*, Australian Government Publishing Service, Canberra, 1994.

Administrative Review Council, Report to the Attorney-General, *The Relationship between the Ombudsman and the Administrative Review Tribunal*, Report No. 22, Canberra Publishing and Printing Co., Fyshwick, 1985.

Australian and New Zealand Ombudsman Association (ANZOA) website www.anzoa.com.au/

Australian Journal of Administrative Law, Vol. 8, August 2001; Vol. 9, November 2001.

Brennan, Sir Gerard, 'Creation of the Federal Court – A Reflection', paper presented at a function marking the 40th Anniversary of the Federal Court of Australia, Law Courts Building, Queens Square, Sydney, 6 February 2017.

Commonwealth of Australia, *Defence Abuse Response Taskforce* – Final Report, Canberra, March 2016.

Commonwealth of Australia, *Gazette*, 1946–72, Australian Government Publishing Service, Canberra.

Creyke, Robin and Keyzer, Patrick (editors), *The Brennan Legacy*, The Federation Press, Sydney, 2002.

Creyke, Robin and McMillan, John, *The Making of Commonwealth Administrative Law – the Kerr, Bland and Ellicott Committee Reports*, reprinted by the Centre for International and Public Law, Australian National University, for the Inaugural Public Law Weekend, 1996.

Ellicott, Robert (as Attorney-General), speech at the inaugural meeting of the Administrative Review Council, Canberra, 15 December 1976, unpublished.

Farquharson, John, 'Bland, Sir Henry (Harry) (1909–1997)', Obituaries Australia, National Centre of Biography, Australian National University, http://oa.anu.edu.au/obituary/bland-sir-henry-harry-1549/text1611, accessed 9 March 2017.

International Ombudsman Institute (IOI) website www.theioi.org/

Kennedy, Peter, 'Recollections of a Line Manager', *Australian Journal of Administrative Law*, Vol. 8, No. 4, August 2001.

Kirby, Michael, 'The Development of the 'New' Administrative Law', Professor Jack Richardson Memorial Oration, ACT Law Society, Canberra, 12 September 2012.

Mason, Sir Anthony, 'Administrative Law Reform: The Vision and the Reality', *Australian Journal of Administrative Law 8* (4) August 2001

Meiklejohn, Carmel, *100 years: Attorney-General's Department: Achieving a Just and Secure Society*, Attorney-General's Department, Canberra, 2001.

Meiklejohn, Carmel, *Officially Receiving: 80 Years of Australian Bankruptcy Administration*, manuscript as at 30 September 2009, Attorney-General's Department Library, 2010.

Meiklejohn, Carmel, *Fitting the Bill: A History of Commonwealth Parliamentary Drafting*, Office of Parliamentary Counsel, Canberra, 2012.

Minister for Defence and Minister for Justice, 'Independent complaints process for Defence', media release, 2 September 2016.

National Library of Australia, Special Collections, sound recordings: address by Professor Jack Richardson to the ANU Convocation, 18 October 1978; address by Professor Jack Richardson to the National Press Club, Canberra, 1 May 1985; Jack Richardson interviewed by John Farquharson, Law in Australian society oral history project, 1995-97.

Office of the Commonwealth Ombudsman, reports and internal publications including annual reports, specialist Ombudsman reports and 20th and 30th anniversary compilations, 1977-2016.

Office of Parliamentary Counsel records: explanatory memoranda for the Ombudsman Bill 1975 and the Ombudsman Bill 1976; archived correspondence and Bill files relating to the development of administrative laws.

Oral history interviews conducted by Carmel Meiklejohn with previous Commonwealth Ombudsmen, others involved in the development of administrative law reforms, and the family of the late Jack Richardson. (see *Acknowledgements* and *thanks*).

Papers and presentations by former Commonwealth Ombudsmen: Jack Richardson (1920–2011), Geoff Kolts, Dennis Pearce, Alan Cameron, Philippa Smith, Ron McLeod, John McMillan, Allan Asher and Colin Neave.

Parliament of Australia, Senate and House of Representatives, *Hansard* 1975–77, in relation to the Ombudsman Bills 1975 and 1976 and passage of other administrative laws.

Parliament of Australia, Senate Standing Committee on Finance and Administration, *Review of the Office of the Commonwealth Ombudsman*, Australian Government Publishing Service, Canberra, December 1991.

Richardson, Jack, 'The Ombudsman', *Law Institute Journal*, Vol 58 No 7, July 1984, pp.814-821.

Richardson, Jack, edited by Stubbs, Matthew, *Australia's Constitutional Government*, LexisNexis Butterworths, Chatswood, 2016.

Richardson, Matthew, 'Notes on Ombudsmen in Ancient Times', 16 February 2017, unpublished.

Sawer, Geoffrey, *Ombudsman*, Melbourne University Press, Carlton, Second Edition, 1968.

Skehill, Stephen, 'Sir Gerard Brennan and Administrative Tribunals', essay in *The Brennan Legacy*, The Federation Press, Sydney, 2002.

Victorian Law Institute Journal, Vol. 58, No. 7, July 1984.

Who's Who in Australia, 1991 and 2004 editions, entry for Jack Edwin Richardson.

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Carmel Meiklejohn has been writing organisational histories and biographies since 2001. Comprehensive research, a collaborative interpersonal style and passionate enthusiasm for her subjects underpin her reputation for weaving illuminating and interesting stories from potentially dry legal and administrative history.

Copies of Carmel's work are held in the National Library of Australia and in various state, territory, legal and academic libraries. Her previous publications are:

100 years: Attorney-General's Department: achieving a just and secure society, Attorney-General's Department, Canberra, 2001.

Officially receiving: 80 years of Australian bankruptcy administration, manuscript as at 30 September 2009, Attorney-General's Department Library, 2010.

Fitting the bill: a history of Commonwealth parliamentary drafting, Office of Parliamentary Counsel, Canberra, 2012.

Brief biographies of Opinions authors in *Opinions of Attorneys-General of the Commonwealth of Australia*, Volume 3: 1923–45, Australian Government Solicitor and Attorney-General's Department, 2013.

Biographies of Opinions authors from 1901 to 1945 on the Legal Opinions website, jointly published by the Australian Government Solicitor, the Attorney-General's Department and the National Archives of Australia. www.legalopinions.ags.gov.au/author_biographies

Historical and biographical text, *AGS CX: looking back, looking forward*, Australian Government Solicitor, July 2013.

Ronald Moore Bannerman AO: *honesty, responsibility and competition*, Australian Competition and Consumer Commission, 2015. https://www.accc.gov.au/publications/ronald-moore-bannerman-ao

'Ewens, John Qualtrough (1907–1992)', *Australian Dictionary of Biography*, National Centre of Biography, Australian National University, published online, 2016. http://adb.anu.edu.au/biography/ewens-john-qualtrough-16354/ text28313

Without Fear or Favour – the life of Dennis John Rose AM QC. Australian Government Solicitor, Canberra, 2016.

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