



OMBUDSMAN 2012–2013 ANNUAL REPORT





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4 October 2013

The Hon. Tony Abbott, MP
Prime Minister of Australia
Parliament House
CANBERRA ACT 2600

Dear Prime Minister

I have pleasure in submitting the thirty-sixth Commonwealth Ombudsman Annual Report for the year ended 30 June 2013, as required by s 19(1) of the *Ombudsman Act 1976*.

The report also contains the annual reports of the Defence Force Ombudsman, Postal Industry Ombudsman and Overseas Students Ombudsman in accordance with sections 19F(3), 19X and 19Z of the Ombudsman Act, respectively.

I certify that this report has been prepared in accordance with the Requirements for Annual Reports for 2012–13 as approved by the Joint Committee of Public Accounts and Audit under sections 63(2) and 70(2) of the *Public Service Act 1999*.

Section 19(4) of the Ombudsman Act requires that the report be laid before each House of the Parliament within 15 sitting days of its receipt.

Yours sincerely



Colin Neave
Commonwealth Ombudsman

Guide to the Report

Through the Commonwealth Ombudsman Annual Report, we aim to meet parliamentary reporting requirements and to provide information to the community about the complaints handled by our office and our other activities.

Target audiences for our report include members of parliament, Australian Government departments and agencies, other ombudsman offices, the media, potential employees and consultants, and the wider public. As some parts of the report will be of more interest to you than others, this page may help you to work out which sections will be the most useful. The Foreword provides a broad summary of the year.

Performance Overview

Chapter 1 – Organisation Overview gives an outline of our role and responsibilities and the organisation's structure.

Chapter 2 – Report on Performance summarises our performance based on the outcomes and program structure set out in our Portfolio Budget Statements and the Portfolio Additional Estimates Statements for 2012–13.

Chapter 3 – Management and Accountability describes our activities in corporate governance, people management and financial management.

The Ombudsman at Work

Chapter 4 – Agencies Overview assesses our work with our top five complaint agencies, and provides an overview of complaints and other approaches to our office.

Chapter 5 – Case Studies provides real-life examples of remedies achieved for individual complainants and examples of remedies that resulted in improved administration. Individual complaints can highlight a broader administrative problem that may affect many people. In these cases, the Ombudsman may recommend that an Australian Government agency implement a systemic change or improvement that might include such things as staff training or changing a process or procedure. These case studies show how we have improved aspects of administration.

Chapter 6 – Investigations, Reports and Submissions summarises our published reports and submissions.

Chapter 7 – Specialist and Other Roles reports on our specialist oversight functions. This covers the Defence Force Ombudsman, the Law Enforcement Ombudsman, the Immigration Ombudsman, the Taxation Ombudsman, the Postal Industry Ombudsman and the Overseas Students Ombudsman. This chapter also reports on our compliance auditing activities and our role within the international community of Ombudsmen.

Heads of departments and agencies were given the opportunity to comment on those draft sections of this report that relate to their organisations.

Appendixes and References

The appendixes include:

- freedom of information reporting
- statistics on the number of approaches and complaints received about individual Australian Government agencies
- a list of consultants engaged during the year
- our financial statements.

A list of tables and figures contained in the body of the report is also included on page 185, while a glossary and list of abbreviations, and the address of each of our offices, is included towards the end of the report.

Contacting the Ombudsman

Enquiries about this report should be directed to the Director, Governance and Business Improvement, Commonwealth Ombudsman (by email to ombudsman@ombudsman.gov.au).

If you would like to make a complaint or obtain further information about the Ombudsman, you can do one of the following things:

Visit one of our offices:

The Commonwealth Ombudsman has offices in Adelaide, Brisbane, Canberra (our national office), Melbourne, Perth and Sydney. Addresses are available on our website and at the end of this report. All offices are open from 9am–5pm Monday to Friday.

Phone:

1300 362 072 from 9am–5pm
Monday to Friday

(Note: this is not a toll-free number and calls from mobile phones are charged at mobile phone rates.)

Write to:

GPO Box 442
Canberra ACT 2601

Send a fax to:

(02) 6276 0123

Visit our website at:

www.ombudsman.gov.au where you can complete an online complaint form

Use Twitter at:

[www.twitter.com/CwealthOmb](https://twitter.com/CwealthOmb)

The Commonwealth Ombudsman Annual Report 2012–13 is available on our website.

Contents

Foreword	viii
1 ORGANISATION OVERVIEW	1
Roles and Functions	2
Organisational Structure	4
2 PERFORMANCE REPORT	7
Objectives, deliverables and key performance indicators	8
3 MANAGEMENT AND ACCOUNTABILITY	19
Senior Management Team	20
Corporate Governance	22
Ecological and Environmental Performance	26
External Scrutiny	26
People Management	27
Financial Management	33
Purchasing	35
4 AGENCIES OVERVIEW	37
Department of Human Services	38
Australia Post	54
Australian Taxation Office	54
Department of Immigration and Citizenship	59
5 CASE STUDIES	65
Individual Remedies	66
Systemic Remedies	70

6 INVESTIGATIONS, REPORTS AND SUBMISSIONS	87
Reports	88
Submissions	90
7 SPECIALIST AND OTHER ROLES	93
Defence Force Ombudsman	95
Law Enforcement Ombudsman	96
Immigration Ombudsman	99
Taxation Ombudsman	103
Postal Industry Ombudsman	103
Australia Post	106
Overseas Students Ombudsman	109
International	114
Public Interest Disclosure	121
APPENDIXES	125
Appendix 1: Information Publication Scheme	126
Appendix 2: Presentations by Staff	127
Appendix 3: Statistics	129
Appendix 4: Additional Reporting on Postal Industry Ombudsman	131
Appendix 5: Agency Resource Statement	132
Appendix 6: Financial Statements	
REFERENCES	177
Glossary	178
Abbreviations and acronyms	184
List of figures and tables	185
Compliance index	186
Index	188
Contacts	204

Foreword

This reporting period has been one of change for the Ombudsman's Office. There have been changes in Senior Management roles, a restructure within the office, and a reduction in the number of approaches (that is, complaints, enquiries and other forms of contact with our office).

We have also reconsidered the way we achieve our objectives, consolidating a new direction in the way we work with government agencies. In addition, the passage of legislation has created an important new role for the office in Public Interest Disclosures within the public sector.

I have now been in the role of Commonwealth Ombudsman for a little over a year, starting in September 2012. The management team has seen departures and arrivals in that time, with a new team now settling into permanent roles. Chapter 1 gives an overview of the team and the roles being performed under our renewed management and governance frameworks.

The restructure that was implemented during 2012–13 brought together all teams that assessed and investigated complaints into a single Operations Branch. This allows us to more consistently monitor and more easily identify similar types of complaints

across different government agencies and to implement strategies for improving the way we investigate and manage them. We are also building our capacity to more flexibly prioritise and allocate complaints to improve our timeliness, as outlined in Chapter 2 and Chapter 4.

In 2012–13 we received 26,474 approaches. This contrasts with 40,092 approaches received in the previous reporting period in 2011–12. Of the approaches received in 2012–13, 18,097 were about agencies within the Ombudsman's jurisdiction, compared to 22,991 the previous year. This represents a 34% reduction in complaints that the office could investigate. There was a 51% decrease in the number of approaches about matters outside the Ombudsman's jurisdiction and requests for information.

The decrease in 'within jurisdiction' complaints to the office correlates with our efforts over several years to encourage client agencies to improve and promote internal complaint handling processes to resolve complaints before these are referred to our office.

In addition, we have redesigned our telephone queue system and auto-attendant messaging to provide members of the public with information about the kinds of matters it is

within our jurisdiction to investigate, and preliminary steps that should be taken before proceeding to make a complaint to our office. It has allowed our Public Contact Team to focus on callers with matters that are clearly within our jurisdiction and more likely to warrant further assessment. This outcome is supported by the number of category 2 complaints (in-jurisdiction complaints that require further assessment) remaining stable between 2011–12 and 2012–13 periods despite the decrease in total approaches to the office. We will closely monitor approach levels over the coming period and review the telephone queue system and auto-attendant messaging as needed.

The office is also settling into a relationship with government agencies that has gradually been taking shape over a number of years that places greater emphasis on improving administration through engagement. Essentially, we are seeking to work more collaboratively with agencies, building relationships based on trust and a ‘no surprises’ approach for both agencies and complainants. There are many drivers for this, but I see this approach as the best way we can achieve our purpose, which is to influence agencies to treat people fairly through our investigations of their administration.

We have also moved from being an office solely concerned with individual grievances to one that has—particularly over the last 10 years—focused more attention on working with agencies to equip them to deal with the immediate complaint, and to create systems that enable them to learn from the experience.

Paying greater attention to systemic issues can be seen in various aspects of the work we do. For example, we now spend more

time analysing complaint trends to identify emerging and systemic issues, and helping agencies to develop prevention strategies at an early stage. In response, agencies have started to approach us seeking our assistance in advance of problems showing up and also briefing us where they see a potential problem developing. This enables us to refer people who contact us with that problem back to the place within the agency to solve it without extensive involvement on our part. This is a better result for the complainant, the agency and our office. We also try, wherever possible, to highlight lessons learned from individual cases through the use of better practice guides, case studies and recommendations that can be applied in different settings—including for ourselves.

For this proactive approach to work well, our office and agencies need to work collaboratively. In my view, this creates the best environment to have the robust conversations that at times are needed to progress a matter. One of my key objectives is to nurture such relationships, as this not only achieves better outcomes but is also more efficient in a resource-constrained environment than a traditional positional approach, particularly given the increasing complexity of public administration.

A good test of this approach will be the Public Interest Disclosure Scheme which seeks to create a usable and effective framework for managing internal disclosures from within the public sector. The Public Interest Disclosure Bill was passed in the Senate on 26 June this year, and the scheme will come into effect from mid-January 2014. I look forward to reporting on its implementation in the next annual report.

Last year, we reported that the *Ombudsman Act 2012* (Norfolk Island) was enacted on 25 August 2012. While the office has prepared in anticipation of the role, to date the appointment has not been finalised.

The small number of complaints that have been made to our office will be assessed when that process is complete.

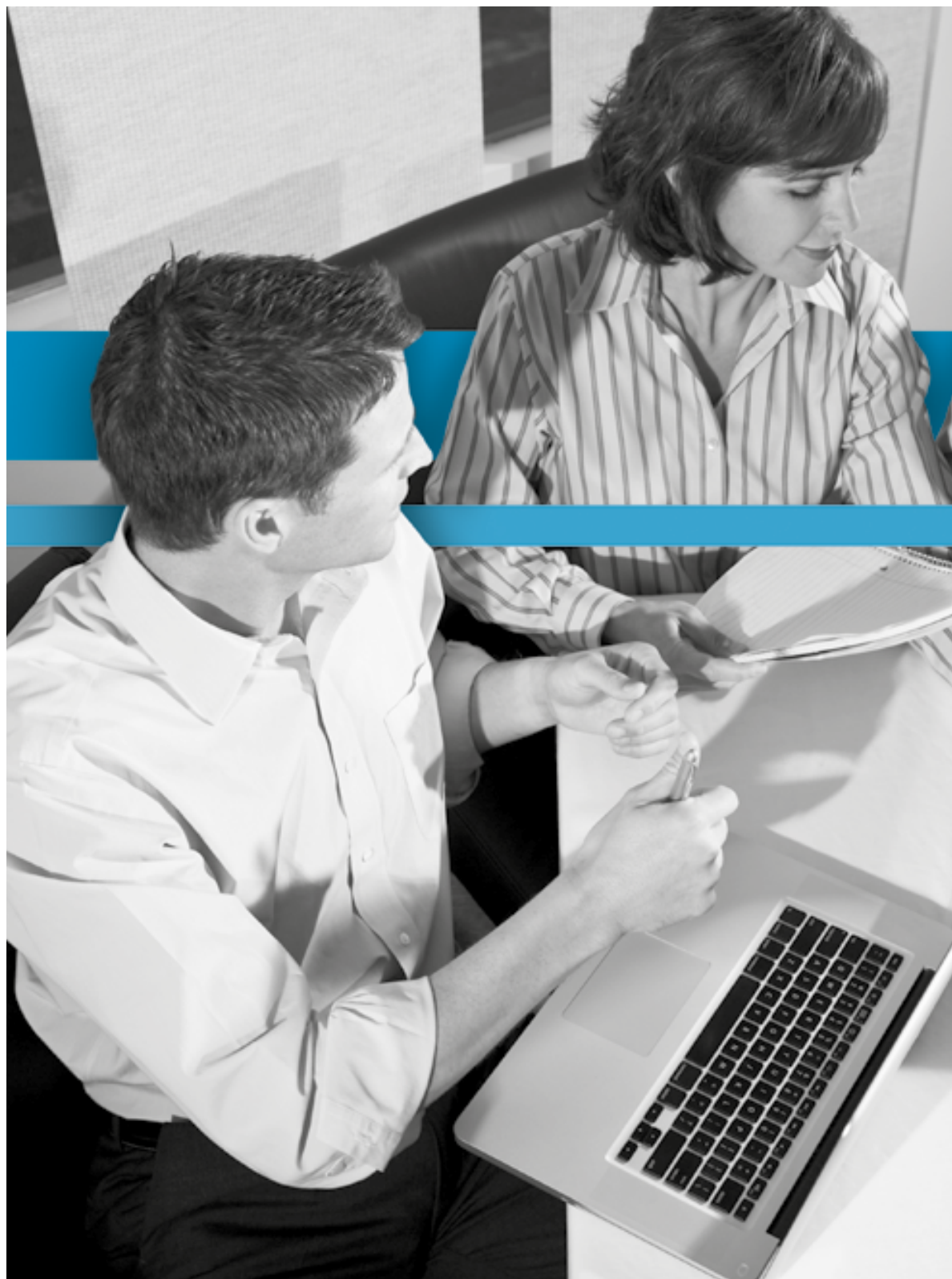
In conclusion, I believe we need to adapt in order to achieve our objective of fostering good public administration in a more complex, interconnected world. Our preferred approach is one that requires not just the exercise of powers in a rigid pre-determined way but that

encourages a flexible approach which, in turn, promotes collaboration and cooperation while adhering to the principles of transparency and accountability. Our transition to an agency that is interested in the individual issue and its broader systemic cause is essential if we are to remain relevant to a public that has an increasing number of other forums in which to air its concerns and grievances.

Colin Neave

Commonwealth Ombudsman







1

Performance Overview

ORGANISATION OVERVIEW

1 | Organisation overview

Organisation Overview

Roles and Functions

The Office of the Commonwealth Ombudsman (the office) exists to safeguard the community in its dealings with Australian Government agencies, and some private sector organisations, and to ensure that administrative actions by those agencies are fair and accountable.

The Ombudsman has four major statutory functions:

1. **Complaint investigations:** conducting reviews of, and investigations into, the administrative actions of Australian Government officials, agencies and their service providers on receipt of complaints from individuals, groups or organisations. The role includes investigating the actions of registered private providers of training for overseas students and registered private postal operators.
2. **Own motion investigations:** on the Ombudsman's own initiative, conducting investigations into the administrative actions of Australian Government agencies. These investigations often arise from insights gained through the handling of individual complaints and our other oversight responsibilities.
3. **Compliance audits:** inspecting the records of agencies such as the Australian Federal Police (AFP) and the Australian Crime Commission to ensure compliance with legislative requirements applying to selected law enforcement and regulatory agencies.
4. **Immigration detention oversight:** under section 4860 of the *Migration Act 1958*, reporting to the Immigration Minister on the detention arrangements for people in immigration detention for two years or more (and on a six-monthly basis thereafter). Our reports, as well as the Minister's response, are tabled in the Parliament. In addition, as Immigration Ombudsman we also oversee immigration detention facilities through a program of regular announced and unannounced visits to detention centres.

Handling complaints and conducting own motion investigations are traditional ombudsman activities; they account for most of the work done by the office. The guiding principle in an investigation is to examine whether an administrative action is unlawful, unreasonable, unjust, improperly discriminatory, factually deficient, or otherwise wrong. At the conclusion of an investigation, the Ombudsman may

recommend that corrective action be taken by an agency, either specifically in an individual case or more generally, by a change to relevant legislation, administrative policies or procedures.

Our office seeks to foster good public administration within Australian Government agencies by encouraging principles and practices that are sensitive, responsive and adaptive to the needs of members of the public. The office is impartial and independent and does not provide advocacy services for complainants or for agencies.

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

In addition, the *Ombudsman Act 1976* confers six specialist roles on the Ombudsman:

- Defence Force Ombudsman, to investigate action arising from the service of a member of the Australian Defence Force
- Immigration Ombudsman, to investigate action taken in relation to immigration administration (including monitoring immigration detention)
- Law Enforcement Ombudsman, to investigate conduct and practices of the Australian Federal Police and its members

- Postal Industry Ombudsman, to investigate complaints about Australia Post and private postal operators registered with the Postal Industry Ombudsman scheme
- Taxation Ombudsman, to investigate action taken by the Australian Taxation Office
- Overseas Students Ombudsman, to investigate complaints from overseas students about private education providers in Australia.

The Commonwealth Ombudsman is the ACT Ombudsman in accordance with section 28 of the *ACT Self-Government (Consequential Provisions) Act 1988* (Cth). The role of ACT Ombudsman is performed under the Ombudsman Act 1989 (ACT) and is funded under a services agreement between the Commonwealth Ombudsman and the ACT Government. The ACT Ombudsman annual report is submitted separately to the ACT Legislative Assembly.

The Commonwealth Ombudsman may be appointed as the Norfolk Island Ombudsman under the *Ombudsman Act 2012* (Norfolk Island).

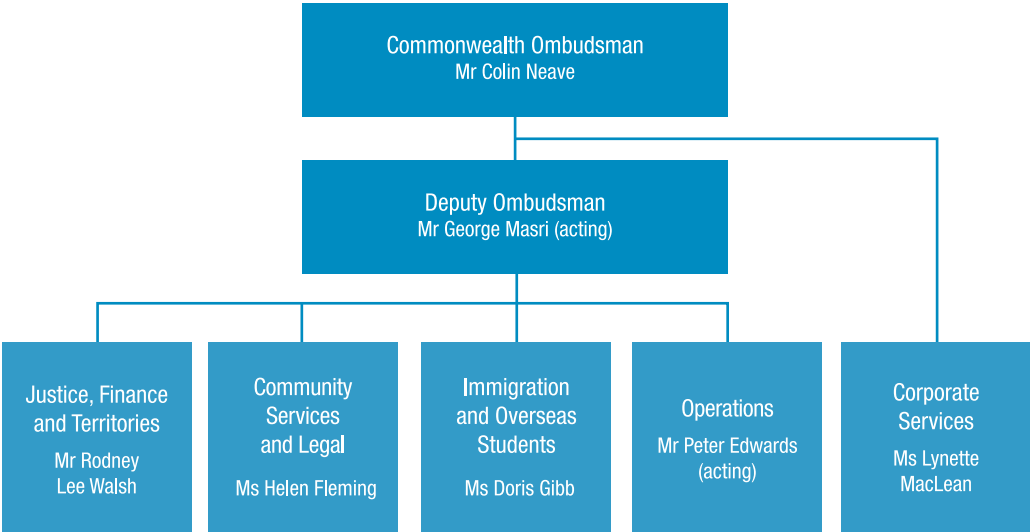
Organisational Structure

The national offices of the Commonwealth, ACT and Norfolk Island Ombudsman are co-located in Canberra. The Office of the Commonwealth Ombudsman also has offices in Adelaide, Brisbane, Melbourne, Perth and Sydney. The office has arrangements in place with the Northern Territory Ombudsman and the Tasmanian Ombudsman to provide Commonwealth Ombudsman services in Darwin and Hobart respectively.

The Ombudsman and Deputy Ombudsman are statutory officers appointed under the Ombudsman Act. Employees are engaged pursuant to the *Public Service Act 1999*. Senior Assistant Ombudsmen are Senior Executive Service Band 1 employees.

The Executive and Senior Management structure as at 30 June is provided at Figure 1.1.

Figure 1.1: Executive and Senior Management structure at 30 June 2013









2

7 | Performance Report

Performance Overview

PERFORMANCE REPORT

Performance Report

This chapter summarises our office's performance based on the outcomes and program structure set out in the Portfolio Budget Statements and the Portfolio Additional Estimates Statements for 2012–13.

An overview of people and financial management performance is provided in Chapter 3. Further financial information is available in the appendixes.

The following chapters provide a more comprehensive review of the outcome of our work:

- Chapter 4 provides an overview of complaint issues, statistics and other information relevant to the five agencies that produced the highest volume of complaints made to the office during the past year
- Chapter 5 comprises case studies of complaints handled by the office during the reporting period, focusing particularly on our work with agencies and the outcomes achieved for individuals
- Chapter 6 provides a summary of the published Ombudsman reports and submissions made to inquiries
- Chapter 7 looks at the specialist roles and functions performed by our office.

Our Outcome, as stated in the Portfolio Budget Statements for 2012–13, is:

Fair and accountable administration by Australian Government agencies by investigating complaints, reviewing administrative action and inspecting statutory compliance by law enforcement agencies.

Supporting the Outcome Statement was the program called the Office of the Commonwealth Ombudsman.

Objectives, deliverables and key performance indicators

The Portfolio Budget Statements for 2012–13 state that the **objectives** of our office are to:

- respond effectively to new areas of complaint and continue to develop compliance auditing expertise and improvement of auditing methodologies and reporting
- enhance staff capability to ensure quality standards for complaint handling and reporting
- ensure the continued timely and effective resolution of complaints through sound working relationships with Australian Government agencies and related service providers

- enhance engagement opportunities for collaboration with stakeholders and intermediaries, national integrity agencies, and regional and international partners
- contribute to debates on key public administration, integrity, accountability, and transparency issues that promote delivery of fair and just government policies and programs
- contribute to improving transparency and accountability of government through oversight and administration of prescribed legislative functions
- undertake own motion investigations and produce reports.

Our **deliverables** are:

- improved public satisfaction with the quality of our services
- better targeted stakeholder engagement through the provision of information and education about our role and importance
- increased monitoring of internal service standards for complaint handling
- identification and reporting on significant and systemic problems in public administration, making recommendations and reporting on implementation
- demonstrated contribution to debates through speeches, reports, submissions and best practice guides
- increased parliamentary and public assurance that covert powers are lawfully used by enforcement agencies.

Our **key performance indicators** are:

- improved administration following the Ombudsman's reports and investigations
- improved complaint handling within agencies
- improved compliance with legal requirements by enforcement agencies in the use of covert powers
- timely inspection reports that identify areas for improvement.

Complaints Overview

Complaints and approaches received

We experienced a significant downturn in the number of complaints and approaches received by our office during 2012–13. In 2012–13 we received a total of 26,474 complaints and other approaches (calls received) compared to the 40,092 received in 2011–12, a reduction of 34%.

An analysis of complaint data indicates that the reduction is primarily due to the new telephony processes we put in place to address customer satisfaction issues (as discussed under Deliverable one, below) and to reduce the number of approaches we receive which are not within the Ombudsman's jurisdiction to investigate or are from complainants who have not first approached the government agency which is the subject of their complaint. Complaint trends over the past seven years are shown in Figure 2.1.

The most significant reduction was a 51% decrease in the number of approaches which were out of the Ombudsman's jurisdiction to

investigate — 8,377 in 2012–13 compared with 17,101 in 2011–12. This continues a trend which began in 2011–12 when we introduced recorded information for incoming telephone calls to inform callers about out of jurisdiction matters. In November 2012, we installed a more comprehensive telephone queueing system with auto-attendant messaging that makes it clearer to callers which matters are within our jurisdiction to investigate and the preliminary steps they should take before making a complaint to our office. As expected, the new system appears to have made a bigger impact on the screening of complaints.

We received 21% fewer complaints which were about matters which are within the Ombudsman's jurisdiction to investigate — 18,097 in 2012–13 compared with 22,991 in 2011–12. This is also a substantial reduction. It may represent a return to the average number of in-jurisdiction complaints, which has been relatively steady over the last few years but spiked in 2011–12. Additionally, any ongoing upward trend in complaint approaches may have

been truncated by the introduction of the auto-messaging system and consequent diversion of complainants who had not yet lodged a complaint with the agency concerned. The latter view is supported by the concurrent diversion of out of jurisdiction approaches.

The number of in-jurisdiction complaints which were sent through to investigation officers remained stable between the 2011–12 and 2012–13 periods, despite the decrease in total approaches received by the office. This would indicate that the reduction in the in-jurisdiction approaches was primarily due to the diversion of those complainants who had not yet complained to the agency concerned.

A corresponding drop in the number of approaches received by telephone supports the view that the telephony change is the most likely reason for the significant reduction in both in and out of jurisdiction complaints. Table 2.2 shows the trends in the method by which approaches and complaints were received.

Figure 2.1: Approach and complaint trends, 2006–07 to 2012–13

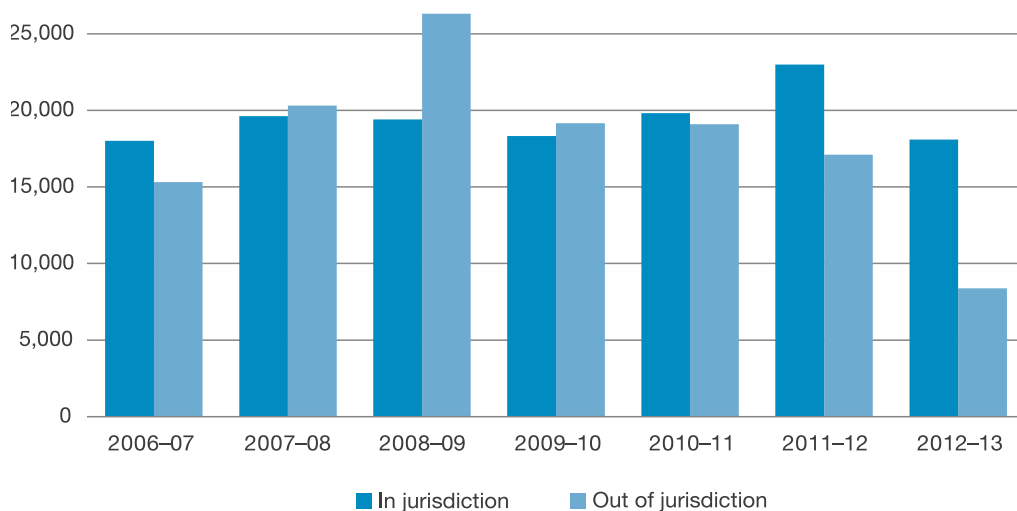


Table 2.1: Approach and complaint trends, by method received, 2006–07 to 2012–13

YEAR	TELEPHONE	WRITTEN	IN PERSON	ELECTRONIC	AFP	TOTAL
2012–13	15,099	1,547	509	9,316	3	26,474
	57%	6%	2%	35%	0%	
2011–12	27,953	2,156	912	9,070	1	40,092
	70%	5%	2%	23%	0%	
2010–11	29,090	1,891	1,015	6,923	0	38,919
	75%	5%	2%	18%	0%	
2009–10	28,447	2,210	1,005	5,803	3	37,468
	76%	6%	3%	15%	0%	
2008–09	35,738	2,654	875	6,452	0	45,719
	78%	6%	2%	14%	0%	
2007–08	30,568	2,861	1,194	5,306	5	39,934
	77%	7%	3%	13%	0%	
2006–07	26,081	2,626	812	3,539	264	33,322
	78%	8%	2%	11%	1%	

Complaint handling

In 2012–13 we finalised 34% fewer approaches and complaints than in 2011–12 (26,739 compared with 40,447). This reduction in complaint closures appears to correlate with the drop in the number of complaints and approaches received.

Despite the efficacy of the new telephony system, in approximately half of the complaints we received we advised the complainant to first take up the matter with the relevant agency.

The number of complaints which were assessed by investigation officers remained consistent (8,591 this year and 8,662 in 2011–12); however, the number of complaints investigated dropped by 32% (3,185 this year compared with 4,667 in 2011–12). This drop in investigations corresponds with an overall decrease in numbers of complaints across agencies, new practices in complaint management, and a focus on systemic issues (these are discussed in Chapter 4). In some complaint areas the proportion of complaints investigated has increased.

Of the complaints investigated, over 20% required more substantial investigation (categories four and five in our five category complaint system) some requiring the involvement of senior managers. This figure is comparable to last year.

There was no significant change to the number of complaints remaining open at the end of the year (1,043 compared to 1,058 in 2011–12).

Deliverables

Deliverable 1: Improved public satisfaction with the quality of services provided by the Ombudsman's Office

New telephony system

In late 2012 we improved the telephone queueing and auto-messaging system on our toll free contact number. This followed our review in response to concerns about the increasing number of contacts and approaches to our office in the previous year.

The difficulties callers were experiencing was indicated by a rise in the number of phone calls in which the caller abandoned their call before speaking to a public contact officer, the number of times callers needed to wait more than five minutes before being able to speak to a public contact officer, and the number of times callers elected to use the call back option.

In response to the review, the phone call system was redesigned to create designated queues for approaches relating to specific agencies. The associated auto-attendant messaging was changed to provide information about the matters which are in our jurisdiction to investigate and more targeted, agency specific advice to callers about making a complaint with the agency concerned. This gives many callers quick access to the information they need without having to speak to a public contact officer.

The new system has resulted in reductions in complaints and approaches as discussed above. In terms of public satisfaction it has meant that people are now able to speak to a public contact officer more quickly and the call abandonment rate has dropped significantly. We are pleased with the improvements resulting from the new system and reducing call wait times for the public.

Organisational restructure

During 2012–13 the office underwent a restructure, bringing together all teams that assessed and investigated complaints into the one Operations Branch. The restructure has made it easier for the office to identify improvements in complaint handling, including implementing strategies to achieve greater consistency. Over time, the restructure will also increase our

capacity to more flexibly prioritise and allocate complaints, enabling us to better manage the timeliness of complaint handling and investigation.

Reviews

We have a formal review process for complainants who may be dissatisfied with the conclusions we reach and decisions we make about their complaint.

In 2012–13 we received 149 requests for review, compared to 217 in 2011–12. This lower number may reflect a change in procedure that was implemented in 2011–12. The changed procedure provides that if a complainant indicates dissatisfaction with the initial investigation and decision made by an investigation officer, the matter is referred to the investigation officer to reconsider. A complainant who is still dissatisfied following the reconsideration may seek a review by a senior officer not previously involved in the handling of their complaint.

In 20 cases, the request for review was declined. Reasons for declining a review request included that the matter was out of jurisdiction, the matter had been reviewed already, considerable time had elapsed before the review request had been made, or the complainant did not provide any information that gave grounds for a review.

We finalised 137 reviews during the year, including some we had received in 2011–12. Of the finalised reviews, the original outcome was affirmed in 128 reviews (93%), more than in 2011–12. We decided to investigate, or investigate further, three reviews (compared with 30 in 2011–12) and to change the decision on the original complaint in two reviews (compared with 15 in 2011–12). Four requests for review were withdrawn by the complainant.

One important factor we take into account in deciding whether to investigate further is whether there is any reasonable prospect of achieving a better outcome for the complainant. This helps to ensure that our resources are directed to areas of highest priority. If the result of a review shows that an investigation is required, the review manager usually allocates the complaint to a senior staff member, and they decide who should undertake the work.

Deliverable 2: Better targeted stakeholder engagement through the provision of information and education regarding our role and importance

Our staff regularly give presentations to stakeholder agencies and other non government bodies about the role of the Ombudsman office and complaint handling practices. We are involved in a number of forums in which we engage with stakeholders at regular events and around specific issues. A summary of key stakeholder initiatives over the reporting period is provided below.

The Immigration Detention Review team:

- provided training to new stakeholder staff responsible for running immigration detention facilities on the role of the Commonwealth and Immigration Ombudsman
- held regular meetings, discussions, and question and answer sessions with stakeholder groups during visits to facilities throughout the detention network. This also provided opportunities to give live feedback, observations and recommendations, while on site

- was involved in targeted stakeholder engagement through regular meetings and discussions with staff from a number of organisations, including the Australian Red Cross, the Australian Human Rights Commission and the Children's Commissioner.

The Inspections and Law Enforcement team:

- gave presentations at induction training for members of the Australian Federal Police (AFP) who had recently joined AFP Professional Standards. The team highlighted the role of the Commonwealth and Law Enforcement Ombudsman in relation to the AFP, including details about our reviews of the AFP's internal complaint handling system under Part V of the *Australian Federal Police Act 1979*, our compliance inspections of certain covert and coercive powers used by the AFP, and our complaint handling role
- engaged with the AFP Association to provide information about the jurisdiction of the Commonwealth and Law Enforcement Ombudsman.

The Overseas Students Ombudsman team:

- participated in a panel discussion at the July 2012 Council of International Students Australia annual conference which brings together international student representatives, peak bodies and stakeholders from around Australia
- attended the Australian Council for Private Education and Training and the English Australia conferences, meeting private providers from the English Language Intensive Course for Overseas Students, Vocational Education and Training and Higher Education sectors

- participated in a multi-agency forum bringing together the Department of Innovation, Industry, Climate Change, Science, Research and Tertiary Education, the Australian Skills Quality Authority and the Department of Immigration and Citizenship.

The Senior Assistant Ombudsman in the Community Services and Legal Branch:

- provided presentations to the Student Financial Advisors Conference and the Department of Families, Housing, Community Services and Indigenous Affairs staff
- met with representatives of welfare rights and community legal centres and Indigenous non-government organisations during the year.

Our Senior Management and Executive officers also delivered a number of speeches and lectures during the year to a variety of audiences including university law students, Australian Public Service graduate program students, international education agents, and organisations such as the Homeless Persons' Legal Clinic, the Ethical Leadership Congress, the Australia and New Zealand School of Government, the Australian Institute of Administrative Law, the Council of International Students Australia Conference, the Justice and Pro Bono Conference and the Independent Competition and Regulatory Commission. A list and details of presentations and speeches is in Appendix 2.

Deliverable 3: Increased monitoring of internal service standards for complaint handling

The organisational restructure that led to a single branch being responsible for the assessment and investigation of complaints has put the office in a much better position to monitor the way complaints are managed. It has also removed some of the variables that previously impacted on our ability to monitor internal workflow in a consistent manner.

This restructure has made it easier to identify internal and external barriers that impact on our achievement of service standards. As a result, regular reporting to Senior Management in relation to workload and internal workflow provides more meaningful intelligence about issues that would benefit from specific intervention.

Deliverable 4: Identification and reporting on significant and systemic problems in public administration, making recommendations and reporting on implementation

The Ombudsman's Office identifies and records recurring issues from complaints, statutory reports, inspections and stakeholder engagement. Significant or systemic issues are pursued with the agencies, and the Ombudsman makes recommendations where appropriate to improve public administration.

The following related activities were undertaken during 2012–13.

- Three own motion reports were published (these reports are summarised in Chapter 6).

- The Immigration Ombudsman's post-immigration detention visit reports form a core part of our detention oversight function. Included in these reports are our observations and recommendations on issues we observe and concerns that are raised by people in detention. These visits provide an opportunity to engage with Department of Immigration and Citizenship staff and their contracted service providers as well as other stakeholders, assess the administrative functions undertaken within the facilities, and discuss operational issues and concerns.
- A review of complaint handling within the detention network was undertaken. Following an increased focus, we have been able to note a general improvement over the previous 12 months in the administration of an individual's property in detention. We have noted better record keeping practices and attention to detail in recording of a person's personal property. This is particularly relevant in recording of valuables and money in most centres.
- Statutory reporting under section 486N of the *Migration Act 1958* included 78 recommendations from the Commonwealth and Immigration Ombudsman to the Minister for Immigration and Citizenship in section 486O reports tabled in the Parliament on the circumstances of people in immigration detention for 24 months or more.

Deliverable 5: Demonstrated contribution to debates through speeches, reports, submissions and best practice guides

In 2012–13, we made formal submissions to the House of Representatives and Senate standing and joint select committees on a broad range of public interest matters, including the:

- Inquiry into the Public Interest Disclosure Bill 2013 by the Standing Committee on Social Policy and Legal Affairs
- Inquiry into the Public Interest Disclosure Bill 2013 by the Standing Committee on Legal and Constitutional Affairs
- Roundtable on International Education by the Standing Committee on Education and Employment
- Inquiry into Potential Reforms of Australia's National Security Legislation by the Parliamentary Joint Committee on Intelligence and Security
- Joint Committee of Public Accounts and Audit Annual Public Hearing with the Commissioner of Taxation to which we submitted a joint response with the Australian Taxation Office, as well as a separate submission.

The office also made a number of submissions to other government activities and reviews (see also Chapter 6), including the:

- Department of Families, Housing, Community Services and Indigenous Affairs' (FaHCSIA) exposure draft of the Social Security Legislation Amendment (Public Housing Tenants Support) Bill 2013, establishing the Housing Payment Deduction Scheme
- Independent Review of the Department of Human Services' Centrepay Scheme
- Dr Allan Hawke AC review of the *Freedom of Information Act 1982* and the *Australian Information Commissioner Act 2010*.

Deliverable 6: Increased parliamentary and public assurance that covert powers are lawfully used by enforcement agencies

The Ombudsman is required by law to inspect the records of certain enforcement agencies in relation to their use of the following covert powers:

- interception of telecommunications and access to stored communications under the *Telecommunications (Interception and Access) Act 1979*. During 2012–13 we conducted a total of 25 inspections of Commonwealth, state and territory enforcement agencies under this Act
- use of surveillance devices under the *Surveillance Devices Act 2004*, under which we conducted 10 inspections of Commonwealth, state and territory enforcement agencies during the year
- controlled operations conducted under Part IAB of the *Crimes Act 1914*, under which we conducted four inspections of Australian Government enforcement agencies in 2012–13.

All inspections were completed, and all reports were submitted, in accordance with the relevant legislation. This year our inspections identified a high level of compliance by most agencies.

We also continued to enhance our auditing expertise and methodology. Staff members participated in our internal training program, and our methodologies were kept up-to-date with amendments to relevant legislation and changes to agencies' business practices.

Key performance indicators

KP1: Improved administration following the Ombudsman's reports and investigations

In May 2013 the Ombudsman released a report (02/2013) into suicide and self-harm in Australia's immigration detention network. The report made nine recommendations to the Department of Immigration and Citizenship (DIAC) concerning, among other things, data collection, management and reporting, review of deaths and serious incidents of self-harm, information delivery and engagement with detainees, and prioritisation and processing of asylum claims and requests for Ministerial intervention. DIAC accepted eight of the recommendations in full or in principle.

In February 2013 the Ombudsman issued a report (01/2013) relating to the investigation of a complaint concerning the administration of youth allowance and made a number of recommendations. The Department of Human Services noted that 'there is always a great deal that can be improved in service delivery by listening to customer and independent feedback' and indicated that it would 'continue to review (its) practices and ensure a high quality of service particularly to people with vulnerable circumstances'.

In December 2012 we published a report following an investigation into a complaint from an overseas student about a refund. The report was titled *Department of Education, Employment and Workplace Relations (DEEWR), and Department of Innovation, Industry, Science, Research and Tertiary Education (DIISRTE): Administration of Student Refunds under the Education Services for Overseas Students (ESOS) Act 2000*. After we became involved, the department liaised with the fund manager and a new decision was made to refund a further significant amount to the complainant.

KP2: Improved complaint handling within agencies

During 2012–13 we introduced new processes with Centrelink, Child Support, the Australian Taxation Office, Australia Post and the Department of Immigration and Citizenship for the transfer of some complaints we receive about the agency directly back to the agency's internal complaint resolution service. This is referred to as a 'warm transfer' and is made with the consent of the complainant.

This transfer process brings to the attention of the agency complaints we consider to require more immediate attention or where we consider that the agency should take up a second opportunity to resolve the complaint without intervention from our office. We have found that this process can facilitate quicker and more efficient resolution of complaints through direct contact with the agency. It also avoids our office having to initiate an investigation where the issue is one that can be more simply addressed by the agency.

This system results in direct benefits to the complainant, the relevant agency and our office. It also increases the focus on the complaint-handling process itself by encouraging agencies to look at how the complaint-handling could have been improved, while giving them a second chance to provide an available remedy to the complainant. Our oversight of the warm transfer process also provides us with information about potential systemic complaint-handling issues, enabling us to work with agencies to resolve underlying problems at an earlier stage.

KP3: Improved compliance with legal requirements by enforcement agencies in the use of covert powers

This year our inspections identified a high level of compliance by most agencies,

and we noted that most agencies had implemented our previous recommendations and best practice suggestions. One of the key improvements we noticed was agencies maintaining sufficient records to demonstrate whether or not they were only dealing with lawfully obtained information.

KP4: Inspection reports will be timely and identify areas for improvement

We are required to report to relevant ministers and the Parliament on the results of our inspections on an annual or biannual basis. During 2012–13 we submitted all 21 of our statutory reports on our inspections of covert powers within the legislated timeframes. The key focus of our reports this year was ensuring that enforcement agencies monitor obtained information to ensure its lawfulness, and quarantine it in instances where there is doubt or insufficient information to determine its lawfulness.

We also submitted inspection reports to the Parliament on our review of the AFP's complaint-handling system, as required under Part V of the *Australian Federal Police Act 1979*, and on the use of coercive powers under the *Fair Work (Building Industry) Act 2012* – both in accordance with the legislated requirements.

In order to ensure that our suggestions and recommendations were useful to agencies in relation to the above inspections, we met with some agencies during 2012–13 to improve our understanding of their procedures and practices. We also continued with our practice of providing a report to the relevant agency on the results of our inspections before submitting our statutory reports to ministers and the Parliament.





3

Performance Overview

MANAGEMENT AND ACCOUNTABILITY

Management and Accountability

Senior Management Team

The Commonwealth Ombudsman, Mr Colin Neave AM, took up his appointment on 17 September 2012. Ms Alison Larkins had acted as Ombudsman from 28 October 2011 to 14 September 2012.

Ms Larkins' substantive position during this period was Deputy Ombudsman. This position remained vacant until 18 April 2012, when Mr George Masri was appointed acting Deputy Ombudsman.

On the appointment of Mr Neave in September 2012, Ms Larkins returned to her substantive position as Deputy Ombudsman and Mr Masri resumed his substantive position as Senior Assistant Ombudsman, Operations Branch.

Ms Larkins left the office on 21 November 2013 and Mr Masri was again appointed acting Deputy Ombudsman from 16 November 2012. Mr Masri was acting in the position at 30 June 2013.



L – R Doris Gibb, George Masri, Colin Neave, Lynette MacLean, Helen Fleming, Rodney Lee Walsh

The remuneration for the Ombudsman and Deputy Ombudsman is set by a Determination made by the Remuneration Tribunal. See Note 11 in the Financial Statements for further details on executive remuneration.

At 30 June 2013 the areas of responsibility were divided among Senior Assistant Ombudsmen as follows.

Helen Fleming, Community Services and Legal Branch:

- specialist advice and complaints relating to the Department of Human Services (including Centrelink, Child Support and Medicare) and relevant policy departments
- specialist advice, complex or systemic complaints and stakeholder engagement relating to Indigenous matters
- management of internal review of complaint handling
- in-house legal and policy advice.

Lynette MacLean, Corporate Services Branch:

- corporate services and office support, comprising security, property, human resources, records management, governance, work practices and procedures
- financial operations, risk management and business planning
- media and public affairs
- information technology and communications infrastructure
- management of the office's International Program and related AusAID projects.

Doris Gibb, Immigration and Overseas Students Branch:

- specialist advice, complex or systemic complaints and stakeholder engagement relating to DIAC
- oversight of immigration detention
- reviews of the circumstances of detainees who have been held in immigration detention for two years or longer (statutory reporting)
- specialist advice, complex or systemic complaints and stakeholder engagement from overseas students about private education and training providers.

Rodney Lee Walsh, Justice, Finance and Territories Branch:

- specialist advice, complex or systemic complaints and stakeholder engagement relating to the Australian Defence Force, Department of Defence, Defence Housing Australia and Department of Veterans' Affairs
- specialist advice, complex or systemic complaints and stakeholder engagement to Australian Government law enforcement agencies' activities
- inspection of law enforcement agencies' records for statutory compliance, adequacy and comprehensiveness
- specialist advice, complex or systemic complaints and stakeholder engagement relating to the ACT Ombudsman function
- specialist advice, complex or systemic complaints and stakeholder engagement relating to Australia Post and registered postal operators of the Postal Industry Ombudsman scheme
- implementation of the Norfolk Island Ombudsman function.

**Peter Edwards (acting),
Operations Branch:**

- point of contact for all approaches to the office made by telephone, email and online
- assessment and investigation of complaints about Commonwealth and ACT Government agencies and contracted service providers
- assessment and investigation of complaints about most private education providers
- identification of systemic issues and liaison with strategic branches about how to progress
- processing and decision making under the *Freedom of Information Act 1982*
- public interest disclosure – implementation, education and oversight
- operational work practices and procedures.

Corporate Governance

Our *2010 – 2013 Strategic Plan* sets out our strategic objectives for the reporting period.

In 2012–13, following a major restructure and planning process in 2011–12, we proceeded with the implementation of a new organisational structure and began re-engineering our work practices. This has given us opportunities to direct resources more effectively towards strategic priorities and to review and consolidate our investigations and inspections work practices.

The staged implementation of the restructure began in early 2012–13 with the establishment of strategic and operational branches. Some benefits of the new structure are that it supports a more flexible response to variations in investigation and inspection workload demands across the office. It also allows for a greater focus on systemic issues, stakeholder engagement, and the development of proactive strategies for promoting better complaints resolution in government agencies generally.

We envisage that further changes will continue to be made during 2013–14 as we refine and settle the new structure and consequential changes to our work practices.

Management Committees

Management Committees assist the Executive and Senior Management team with decision making in key areas. The committees make recommendations to the Senior Management team, which meets monthly.

The restructure makes it timely to review our governance framework, including the committee structure and terms of reference. This will be a priority in 2013–14.

Senior Management Team

The Senior Management team comprises the Ombudsman, the Deputy Ombudsman and Senior Assistant Ombudsmen. It meets monthly to discuss a broad range of issues relating to the work of the office.

Audit Committee

As required by the *Financial Management and Accountability Act 1997*, we have an Audit Committee. The committee's role is to review and, where necessary, make improvements to the:

- adequacy of our governance arrangements (the internal control environment)
- operational effectiveness of our risk management framework
- adequacy of controls designed to ensure we comply with legislation
- content of reports on internal and external audits (for the purpose of identifying relevant material and advising the Ombudsman about good practices)
- adequacy of our response to reports of internal and external audits
- coordination of our work programs relating to internal and external audits, as far as possible.

In addition, the Audit Committee advises the Ombudsman on the:

- action to be taken on significant matters of concern, or significant opportunities for improvement, that are mentioned in reports on internal and external audits
- preparation and review of our financial statements
- Ombudsman's obligations under the Act
- internal audit plans of the office
- professional standards to be used by internal auditors in the course of carrying out audits in the office.

At 1 July 2012 the Audit Committee was chaired by the Deputy Ombudsman. In addition to the Chair, membership comprised three Senior Executive Service officers and two external independent members. Observers included our Chief Financial Officer and representatives from the Australian National Audit Office and PricewaterhouseCoopers (our internal auditors).

In August 2012 the membership of the Audit Committee was reviewed and amended. It now consists of a minimum of three and a maximum of five members appointed by the Ombudsman. At least one member of the committee must be an independent member, and the Chair must also be independent. The Deputy Ombudsman is the Deputy Chair of the committee.

During 2012–13, the Audit Committee actively monitored the office's progress in implementing changes to our work practices and corporate governance activities.

Work Health and Safety Committee

Our Work Health and Safety Committee comprises elected staff representatives from each of our state and Canberra offices. It is chaired by the Assistant Director, Human Resources (who represents management), and it met four times during the year.

The committee's focus during 2012–13 was on facilitating workstation assessments for staff and biannual workplace inspections of all our offices to ensure we complied with our duty to provide a safe workplace under the terms of the *Work Health and Safety Act 2011*.

Workplace Relations Committee

The Deputy Ombudsman chairs the Workplace Relations Committee. It comprises employee, management and union representatives, and is the main consultative body on workplace conditions within the office. The committee met three times during the year and considered matters such as human resources policies, learning and development, change management and workplace issues.

Corporate governance practices

The office's management of risk is overseen by the Audit Committee. Our risk management framework

comprises an overarching risk management policy, a strategic risk plan and a strategic risk register. The Senior Management team regularly reviews strategic risks as part of the business planning process.

We continue to participate in the annual Comcover Risk Management Benchmarking Survey, which independently assesses our risk management arrangements.


Fraud prevention and control

In March 2013 we reviewed and updated our Fraud Control Plan (which is overseen by the Audit Committee) and fraud risk assessment. The risk of fraud remains low for the office.

Certification of Fraud Control Arrangements

I certify that the Office of the Commonwealth Ombudsman (the Office) has:

- prepared fraud risk assessments and fraud control plans;
- appropriate fraud prevention, detection, investigation, reporting and data collection procedures and processes that meet the specific needs of the Office;
- taken all reasonable measures to minimise the incidence of fraud in the Office and to investigate and recover the proceeds of fraud against the Office.



Colin Neave

Commonwealth Ombudsman

13 September 2013

Ethical standards

We maintained our commitment to ethical standards by ensuring staff were aware of the Australian Public Service (APS) Values and Code of Conduct. In June 2013 we held awareness-raising sessions with staff in preparation for the implementation of the new APS Values and Employment Principles and changes to the Code of Conduct from 1 July 2013.

Business continuity planning

The purpose of our Business Continuity Plan is to ensure that our most critical work can continue with minimal disruption, or be quickly resumed, in the event of a disaster. We reviewed our Business Continuity Plan in 2011–12 and again in 2012–13, along with the associated Disaster Recovery Plan. The purpose of the review was to ensure that, in light of our recent restructure and work practice changes, both the Business Continuity Plan and the Disaster Recovery Plan continued to meet our critical business requirements and we would maintain our ability to function.

Complaint management

We have an established internal complaints and review process, which allows reviews about Ombudsman decisions and complaints about service quality to be resolved fairly and informally. In 2011–12 we evaluated our practices against our own *Better Practice Guide to Complaint Handling*.

During 2012–13 we began considering and implementing the review outcomes with a view to further improving our complaint handling processes, and our processes for accepting and monitoring complaints about our service delivery. In the last half of 2012–13, this included preparatory work to establish a committee to oversee various work practice and business improvement changes, and the preparation of new training presentations for staff. Our complaints mechanism is set out in our Service Charter and there is more information about the review process in Chapter 2.

Accessibility

In developing and maintaining our websites, we use the priority 1 and 2 checkpoints of the World Wide Web Consortium Web Content Accessibility Guidelines 1.0 as the benchmark. Activities to ensure compliance include testing colour contrast for the vision impaired, limiting the use of graphics, simplifying navigation and providing a site map, separating document formatting from content with style sheets, providing text equivalents for non-text elements, and improving metadata.

We implemented an action plan in late December 2012 to ensure we comply with the Web Content Accessibility Guidelines 2.0 (AA Level) by December 2014. The plan includes measures to address any technical limitations of our current information and communications technology systems that may impede AA level compliance.

Ecological and Environmental Performance

We are required by s 516A of the *Environment Protection and Biodiversity Act 1999* to report on certain environmental matters. Our Office Environmental Management Policy helps us to manage our activities and detail our performance and contribution to environmental protection and ecological sustainability.

Our environmental impact is primarily through office-based energy consumption, paper resources and waste management and our performance in these areas is set out below in more detail.

Energy consumption

We reduced our energy consumption during the year by 10.7%, although consumption of megajoules per person increased by 2.1% due to the reduction in the average staffing level for the year.

Our Environmental Management Policy promotes and encourages:

- staff to turn office lights off at the end of each day in their work area and in other areas of the office that are not being used
- minimisation of energy consumption through mechanisms such as default settings that turn off office lights and air conditioning at predetermined times
- environmental awareness via our intranet to inform employees about energy and environmental issues, office initiatives and tips to save energy.

Paper resources

We manage an electronic database to reduce the volume of paper records and photocopier usage. In addition, all of our paper supplies are either manufactured from at least 50% recycled products or they are carbon neutral. Other office materials, such as files, are recycled within the office to minimise the volume of stationery we use.

Waste management

We actively manage the waste we produce through several mechanisms:

- recycling bins are provided in all offices to encourage recycling of office waste, such as paper and cardboard packaging
- toner cartridges are recycled
- kitchen waste, such as plastic bottle and cans, is recycled via special bins provided in break-out areas.

External Scrutiny

Court litigation

The office was the respondent in two matters brought before the Courts.

In the first matter, before the Federal Court, the applicant sought an order that the Ombudsman apologise for deciding not to investigate his complaint. The applicant discontinued the action against the Ombudsman before the matter was determined by the Court.

In the second matter, before the Federal Magistrates Court, the applicant sought orders relating to alleged discrimination in connection with her employment. The action was discontinued by the applicant following settlement.

Tribunal litigation

The office was not involved in any tribunal litigation during 2012–13.

Office of the Australian Information Commissioner

The office has been advised of three matters where applicants have sought review by the Information Commissioner of decisions under the *Freedom of Information Act 1982* (the FOI Act), and of one complaint to the Information Commissioner under the FOI Act. The Information Commissioner has not investigated any of these matters.

In addition, we are awaiting a decision from the Information Commissioner in relation to two reviews that began in 2011–12.

In 2012–13 we obtained a Vexatious Applicant Declaration under Part VIII of the FOI Act in relation to an applicant who had made frequent requests under the FOI Act for personal information relating to Ombudsman staff.

The office is subject to the *Privacy Act 1988* and we provide information required for the Personal Information Digest. The Privacy Commissioner did not issue any report or make any adverse comment about the office during the past year.

Australian Human Rights Commission

The office is subject to the jurisdiction of the Australian Human Rights Commission but no complaints were made to the commission about the office in 2012–13.

People Management

Workplace relations

Our *Enterprise Agreement 2011 – 2014* came into effect on 27 July 2011 and will reach its nominal expiry date on 30 June 2014. The Enterprise Agreement focuses on people, remuneration and employment arrangements, working environment and lifestyle, learning and development, and performance management and improvement.

A total of 152 employees are covered under the Enterprise Agreement. Conditions are provided for our five Senior Executive Service (SES) staff under section 24 (1) of the Public Service Act. No staff were employed under Australian Workplace Agreements or common law contracts. There was one Individual Flexibility Agreement.

The Enterprise Agreement does not make provision for performance pay. Salary advancement within each of the non-SES classifications is linked to performance. Determinations under section 24 (1) of the Public Service Act provide for SES annual salary advancement based on performance and do not make provision for performance pay. During the year, the office undertook a review of its SES remuneration arrangements.

Staffing profile

Including the Ombudsman and Deputy Ombudsman, the average full-time-equivalent number of employees for the year was 141.42 and the full-time-equivalent number of employees at 30 June 2013 was 145.84.

Table 3.1 shows the number of employees by gender, APS classification and salary range. Table 3.2 shows our staffing profile by location, while Table 3.3 and Table 3.4 show our part-time employee profile by location and classification respectively.

During the year, 20 employees were engaged on an ongoing basis and 17 ongoing employees left the office, equating to a turnover rate of 12% (compared to 18% the previous year). There were 39 separations, including ongoing and non-ongoing employees.

Table 3.5 shows staff separations by classification at 30 June 2013.

Table 3.1: Staffing profile by gender, APS classification and salary range at 30 June 2013

APS CLASSIFICATION AND SALARY RANGE	MEN (AT 30 JUNE 2013)		WOMEN (AT 30 JUNE 2013)		TOTAL			
	ONGOING	NON-ONGOING	ONGOING	NON-ONGOING	ONGOING		NON-ONGOING	
					AT 30 JUNE 2012	AT 30 JUNE 2013	AT 30 JUNE 2012	AT 30 JUNE 2013
APS1 \$42,434 – \$46,903	–	–	–	–	–	–	–	–
APS2 \$48,025 – \$53,255	–	–	–	–	–	–	–	–
APS3 \$54,702 – \$59,041	4	–	8	1	2	12	–	1
APS4 \$60,967 – \$66,194	9	–	14	3	29	23	–	3
APS5 \$67,999 – \$72,105	7	–	14	1	22	21	–	1
APS6 \$73,445 – \$84,366	10	–	18	1	29	28	–	1
EL1 \$94,152 – \$109,723	17	–	26	–	43	43	1	–
EL2 \$109,627 – \$130,514	7	2	11	–	17	18	–	2
SES \$170,781 – \$185,400	2	–	3	–	5	5	–	–
Statutory officers	1	–	–	–	1	1	–	–
TOTAL	57	2	94	6	148	151	1	8

Note 1: Under the enterprise agreement, employees moving to the office from a higher salary range may be maintained at that salary until increments in our salary range exceed the salary differential.

Note 2: APS = Australian Public Service; EL = Executive Level; SES = Senior Executive Service

Table 3.2: Staffing profile by location at 30 June 2013

LOCATION	MEN	WOMEN	TOTAL
ACT	44	72	116
NSW	2	8	10
QLD	2	5	7
SA	5	5	10
VIC	4	9	13
WA	2	1	3
TOTAL	59	100	159

Table 3.3: Staffing profile showing part-time employees by location at 30 June 2013

LOCATION	MEN	WOMEN	TOTAL
ACT	6	20	26
NSW	–	2	2
QLD	1	2	3
SA	–	2	2
VIC	–	4	4
WA	–	–	–
TOTAL	7	30	37

Table 3.4: Staffing profile showing part-time employees by classification at 30 June 2013

LOCATION	MEN	WOMEN	TOTAL
APS1	–	–	–
APS2	–	–	–
APS3	1	5	6
APS4	1	3	4
APS5	–	9	9
APS6	2	4	6
EL1	2	7	9
EL2	1	2	3
SES	–	–	–
TOTAL	7	30	37

Table 3.5: Staffing profile showing staff separations by classification at 30 June 2013

APS CLASSIFICATION	ONGOING	NON-ONGOING	TOTAL
APS1	–	–	–
APS2	–	3	3
APS3	–	10	10
APS4	5	6	11
APS5	3	1	4
APS6	3	–	3
EL1	1	1	2
EL2	2	1	3
SES	2	–	2
Statutory office holders	1	–	1
TOTAL	17	22	39

Career development and training

Our learning and development framework is based on three elements: leadership, corporate and core business programs.

Each staff member is encouraged to undertake learning and development programs that are designed to promote their capability in relation to their corporate and core business training and development.

We have employed the services of an external provider to prepare a comprehensive Learning and Development Strategy which will ensure that learning is aligned with current and future business needs and meets strategic needs while creating the opportunity to be an employer of choice. Focus groups commenced on 1 May 2013 and the strategy is due for completion in July 2013.

We are currently rolling out a suite of training programs to address identified training needs throughout the office, and we had delivered nine training programs by 30 June 2013.

In the past we have delivered a suite of 11 in-house training modules designed specifically to develop core competencies and skills in investigations, inspections, writing, administrative law, office practices and record keeping. These modules are currently being evaluated and updated and will be delivered regularly in accordance with our revised Learning and Development Strategy.

We also support staff to undertake relevant study at tertiary institutions through study leave and/or financial assistance.

Work health and safety

During the first half of the year, no accidents or injuries occurred that are reportable under section 38 (5) of the *Work Health and Safety Act 2011* (the WHS Act) and we did not conduct any investigations under Part 10 of the WHS Act.

All new employees are advised of the importance and responsibilities of staff and management for health and safety in the workplace during their induction and are required to complete the e-learning module on the work health and safety laws and responsibilities. New employees undertake a workstation assessment during their first week with the office. Employees who work from home complete a Working from Home Application form to assess the need for workplace inspections.

A Work Health and Safety Officer (WHSO) or Deputy WHSO is located at each office site. The WHSOs or Deputy WHSOs manage workplace health and safety matters through the Occupational Health and Safety Committee, regular staff meetings or by seeking assistance from an officer under the WHS Act. All WHSOs and Deputy WHSOs have undertaken relevant training post-implementation of the WHS Act.

During 2012–13 we undertook a number of health and safety initiatives. We:

- arranged health assessments, where necessary
- conducted individual workplace assessments
- facilitated eye examinations, where necessary

- made first aid facilities and supplies available, and provided first aid training to first aid officers (refresher and senior first aid for new officers)
- provided workplace health and safety training to WHSOs and Deputy WHSOs
- conducted regular simulated fire evacuations
- targeted individual health awareness by providing flu vaccinations to employees free of charge, a healthy lifestyle reimbursement of up to \$299 per year, individual health assessments and mental health first aid training
- invited all employees to participate in Dealing with Stress in the Workplace workshops
- delivered in-house workstation ergonomics training for our human resources staff and executive assistants.

We encourage the participation of staff and their families in our health and wellbeing programs. For the fifth consecutive year, we entered a team in the Stromlo Running Festival Corporate Challenge, held in February. This year proved to be another successful event for the office, with a significant number of staff and their families and friends participating, and we were very proud to be overall winners on the day.

To promote a supportive working environment, we provide staff and their immediate families with access to an Employee Assistance Program. This program offers a confidential counselling service, facilitation of teamwork issues, career advice and the management of any work-related or personal issues.

Changes to disability reporting

Since 1994 Australian Government departments and agencies have reported on their performance as policy adviser, purchaser, employer, regulator and provider under the Commonwealth Disability Strategy. In 2007–08 reporting on the employer role was transferred to the Australian Public Service Commission's State of the Service Report and the *APS Statistical Bulletin*. These reports are available at www.apsc.gov.au. Since 2010–11, departments and agencies have no longer been required to report on these functions.

The Commonwealth Disability Strategy has been overtaken by a new National Disability Strategy 2010 – 2020 which sets out a 10-year national policy framework to improve the lives of people with disability, promote participation, and create a more inclusive society. A high-level, two-yearly report will track progress against each of the six outcome areas of the strategy and present a picture of how people with disability are faring. The first of these reports will be completed in 2014 and will be available at www.fahcsia.gov.au.

The Social Inclusion Measurement and Reporting Strategy agreed by the Australian Government in December 2009 will also include some reporting on disability matters in its regular How Australia is Faring report and, if appropriate, in strategic change indicators in agency annual reports. More information about social inclusion matters can be found at www.socialinclusion.gov.au.

Agency Multicultural Plan

This year we acquired responsibilities under the Commonwealth Multicultural Access and Equity Policy, Respecting diversity. From April 2013 we began preparing an Agency Multicultural Plan to address our multicultural access and equity obligations over the period 2013–2015. We will start implementing our finalised multicultural plan from 1 July 2013.

Financial Management

Financial performance

The 2012–13 financial year brought a level of stabilisation to our staffing and financial management with a decrease in average staffing levels from the 2011–12 financial year. An organisational restructure in September 2012 enabled us to better direct our existing resources to demands. Our Adelaide staff relocated to new premises at the beginning of July 2012.

We recorded an operating surplus attributable to the Australian Government of \$457,000 (including depreciation and amortisation). The main driver of this variance was a reduction in employee expenses (\$520,000) and contractors and consultancies (\$290,000).

Our underspend was also affected by the Efficiency Measure of \$89,000 announced in November 2012 and the mechanism for effecting the measure which did not formally reduce the appropriation for 2012–13 but prevented agencies from using the funds.

Expenses

We reduced total expenses from \$23.385 million in 2011–12 to \$20.214 million in 2012–13. The main factors contributing to this reduction are below.

- Employee benefits decreased significantly from \$17.2 million in 2011–12 to \$14.4 million in 2012–13. This was primarily due to a planned reduction in the number of staff due to a reduction in appropriation revenue. The reduction to staff numbers commenced in 2011–12 with realisation of the impact over a full year in 2012–13. The average staffing level decreased by 23.0 (from 158.4 in 2011–12 to 135.4 in 2012–13). The reduction was marginally offset by a 2% salary increase under the Enterprise Agreement and an increase to the notional cost of the superannuation scheme.
- Supplier expense reduced by \$352,000 across several expense categories during 2012–13 in response to the overall reduction to appropriation revenue. The main contributors were:
 - travel (reduced by \$156,000) due to fewer trips
 - legal expenses (reduced by \$123,000)
 - other expenses (reduced by \$93,000) due to less activity in public affairs
 - media related (reduced by \$89,000) due to reduced media monitoring and the cancellation of client surveys

- The reduction in supplier costs was partially offset by a significant increase in workers' compensation costs which rose from \$163,000 in 2011–12 to \$274,000 in 2012–13.
- Write down and impairment of assets increased by \$20,000 reflecting a debt write off in relation to the International program. The annual impairment test resulted in \$26,000 in property plant and equipment and \$22,000 of intangible assets being written off due to obsolescence.

Income

Our sale of goods and rendering of services revenue increased by \$267,000 over the year due to:

- a memorandum of understanding with Royal Australian Air Force (RAAF) to establish a noise complaint mechanism for Australian Super Hornet flying operations at RAAF Amberley (\$60,000)
- a memorandum of understanding with the Office of the Fair Work Building Industry Inspectorate to review the exercise of powers under specified parts of the *Fair Work Building Industry Act 2012* (\$150,000)
- a minor increase in activity in the AusAid program.

Appropriation revenue decreased by \$1.693 million due to the termination measures for funding of the Northern Territory Emergency Response (\$900,000) and Christmas Island oversight (\$400,000) and the impact of the 2.5% Efficiency Dividend (\$500,000).

Financial position

Assets

Our financial assets increased by \$868,000 reflecting an increase in appropriation receivable for the year. The increase was due to funding received as Departmental Capital Budget (\$609,000) that was not spent, and the impact of the operating surplus.

Non-financial assets decreased by \$639,000 due to an underspend in capital asset additions and a reduction to prepayments of \$186,000.

Liabilities

Our total payables reduced by \$608,000 over the year due to:

- a reduction in supplier payables of \$506,000. The 2011–12 supplier payables included accruals for the leasehold improvement works in Adelaide (\$208,000) and the costs associated with the recruitment of the Ombudsman
- a reduction in unearned income due to part of the AusAID grant program being funded in arrears whereas it was funded in advance in 2011–12
- the lease payment for the Canberra office. An additional increase of \$255,000 relates to the mandated accounting method (straight lining) for the new Adelaide and Sydney building leases.

Our provisions decreased by \$229,000 reflecting the reduction in average staffing levels that was partially offset by the impact of the Enterprise Agreement increase and a change in the discount factor applied to long service leave calculations.

Purchasing

We are committed to achieving the best value for money in our procurement activity. Our procurement practices are consistent with the Commonwealth Procurement Rules and are set out in the Chief Executive Instructions. During the 2012–13 financial year, we adopted the Department of Finance and Deregulation standard process for procurement under \$80,000 to ensure compliance with best practice and consistency across government.

We published our Annual Procurement Plan on AusTender to facilitate early procurement planning and to draw attention to our planned procurement for the financial year.

Consultants

During 2012–13 we entered into three new consultancy contracts with a total actual expenditure of \$74,465 (including GST). There were no ongoing consultancy contracts that were active during the 2012–13 year.

We did not let any contracts containing provisions that do not allow the Auditor-General to have access to the contractor's premises, and we did not exempt any contracts from being published on AusTender.

Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website at www.tenders.gov.au.

We do not administer any grant programs.

Table 3.6: Expenditure on consultancy contracts 2010–11 to 2012–13

YEAR	NUMBER OF CONSULTANCY CONTRACTS	TOTAL ACTUAL EXPENDITURE
2012–13	3	\$74,465
2011–12	7	\$251,010
2010–11	7	\$185,691

Advertising and market research

The office did not undertake any market research activities or advertising campaigns during the 2012–13 financial year.





4

The Ombudsman at work **AGENCIES OVERVIEW**

Agencies Overview

Most of the approaches and complaints we received about Australian Government agencies in our jurisdiction (76%), related to the following five agencies (or programs within the agencies):

- Centrelink (Department of Human Services) – 5,093 complaints (28% of the total we received)
- Australia Post – 3,652 (20%)
- Australian Taxation Office – 1,795 (10%)
- Child Support (Department of Human Services) – 1,736 (10%)
- Department of Immigration and Citizenship – 1,547 (8%).
- Postal Industry Ombudsman
- Law Enforcement Ombudsman
- Inspection functions.

Department of Human Services

The Department of Human Services (DHS) delivers the Australian Government's Centrelink, Child Support and Medicare programs. DHS is also responsible for delivering a number of smaller programs, such as CRS Australia, Australian Hearing, the Small Business Superannuation Clearing House, and the Early Release of Superannuation Benefits on Specified Compassionate Grounds program.

The Ombudsman received a total of 7,192 complaints about DHS programs in 2012–13 (a reduction of almost 25% from 2011–12, when we received 8,967). Complaints about the Centrelink program accounted for almost 71% of the complaints about DHS, followed by Child Support (just over 24%). The bulk of the remaining DHS complaints were about Medicare and the Early Release of Superannuation Program.

This chapter discusses our work with four of these agencies, or programs, in handling complaints and dealing with broader issues during this financial year. Our work with Australia Post is detailed in the overview of the Postal Industry Ombudsman in Chapter 7.

Chapter 7 will provide an overview of the specialist roles we perform, including the:

- Defence Force Ombudsman
- Immigration Ombudsman
- Overseas Students Ombudsman

Centrelink

Centrelink delivers social security and family payments, plus a range of other payments and services to people in the Australian community, and some people overseas. On 1 July 2012 Centrelink was integrated into DHS and ceased to be a discrete Australian Government agency. However, we have continued to separately record the complaints we received about DHS' Centrelink program (Centrelink) to allow us to compare complaint trends over the years.

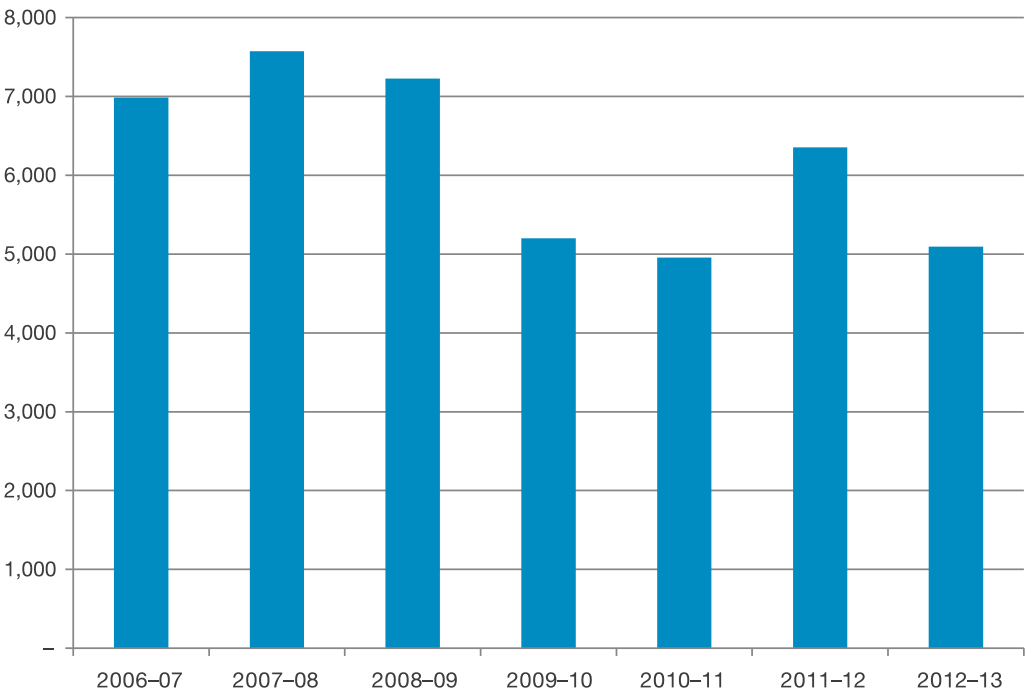
Complaint themes

In 2012–13 we received a total of 5,093 complaints about Centrelink. Although this is fewer than in 2011–12, when we received 6,355, it still represents the highest number of complaints recorded about any Australian Government agency or program in 2012–13. In fact, Centrelink, and its predecessor, the Department of Social Security, has consistently received more complaints than any other

agency or program every year since 1994. However, we must acknowledge that the large numbers of complaints about Centrelink are explained, in part, by the nature of the services that Centrelink delivers (such as means tested income support payments) and the sheer scale of its operations.

Centrelink processes a high volume of administrative transactions each year, for example in 2011–12 it had more than 7 million customers, answered more than 44 million telephone calls, sent out more than 100 million letters, and sent a further 19 million items of online correspondence. However, we do observe changes in the pattern of complaints about Centrelink, and this year was no exception. In this section we make some observations about Centrelink's administration (based on the volume of calls to our office), the issues that people identify in their complaints, and what we learned from the complaints that we investigated.

Figure 4.1: Number of complaints and approaches about Centrelink from 2006–07 to 2012–13



Access to Centrelink's internal complaint service

In last year's annual report we noted that Centrelink complaint numbers had increased, following two years when they decreased. We attributed this to two main factors: firstly, there were large numbers of complaints about significant wait times on Centrelink's telephone lines; and secondly, Centrelink customers were bypassing Centrelink's complaint service to express their dissatisfaction and calling the Commonwealth Ombudsman's Office instead. We believed this change in customer behaviour was driven by Centrelink's decision in early 2012 to remove the telephone number of its complaint service from its letters. Instead, its letters referred people to the DHS website to find out how to make a complaint, but still included the telephone number for the Commonwealth Ombudsman. Many of the people who called us thought they were actually ringing Centrelink. Our complaints staff spent a significant portion of their time answering calls from frustrated Centrelink customers and redirecting them back to Centrelink.

We suggested to DHS that it reinstate the telephone number for its complaint service in its letters to Centrelink customers and in June 2013 DHS decided to do this. Unfortunately, the implementation of change will not be quick: DHS advised us that it will revise the standard text in each of the template letters as and when they are reviewed over the next 18 months.

Diverting callers back to the DHS complaint service

We have adjusted our own work processes to cope with the large numbers of people calling us first to complain about Centrelink.

In late 2012 we implemented a new 'queuing' arrangement and recorded messaging on our complaints line. This allows us to identify those callers who are ringing us to complain about DHS and to encourage them to call the DHS Feedback and Complaints Line before making a complaint to the Ombudsman. Before these callers are connected to one of our public contact staff, they will hear a recorded message that explains that they have called the Commonwealth Ombudsman's Office. The message goes on to say that we are unlikely to be able to help them if they have not already tried to resolve their complaint by calling the DHS Feedback and Complaints Line, and gives them the telephone number for that service.

We think our messaging arrangements have diverted around 5,000 people to the DHS complaint service rather than making a complaint to this office in the first instance. The bulk of those callers would have been ringing us with a Centrelink problem (as distinct from a problem with Child Support or Medicare). Once they obtained the number from our recorded message and called the DHS complaint service, many people have been able to resolve their problem with Centrelink by speaking to the organisation responsible for it. This has been so effective that we actually received fewer complaints about Centrelink in 2012–13 than we did in 2011–12.

Consistent with our telephone messaging strategy, we have also continued to transfer certain Centrelink complaints to the DHS Feedback and Complaints Line so that it can try to resolve them before we will commence an investigation. This 'warm transfer' process for Centrelink complaints began in July 2012.

We generally make a ‘warm transfer’ if the person who made the complaint to this office has not yet used the DHS complaint service and there is some barrier to them making the call themselves. Sometimes the barrier can be as simple as the cost of making a timed telephone call to DHS from their mobile phone, while other people lack the confidence to call Centrelink themselves. We invite the complainant to contact us again if they are dissatisfied with Centrelink’s response, or if Centrelink fails to contact them within the agreed three-day timeframe (or sooner if the matter is more urgent).

Through judicious use of ‘warm transfers’, and by suggesting that other complainants call the DHS complaint service or use their appeal and review rights to challenge a decision, we have significantly reduced the proportion of Centrelink complaints that require investigation by our staff. In 2011–12 we investigated 24% of the Centrelink complaints that we finalised, while this proportion dropped to 17.4% in 2012–13.

Systemic issues

Own motion investigation into Centrelink service delivery

Although we have reduced the proportion (and number) of individual Centrelink complaints that we investigated, we have taken the opportunity to focus our efforts on some of the more complex systemic problems revealed by those complaints.

Our analysis of our Centrelink complaints data suggested a range of service delivery problems. For example, we received

many complaints about unreasonable waiting times on Centrelink’s telephone lines; unclear and confusing computer-generated correspondence; processing delays; delays conducting internal reviews of decisions; and problems getting access to face-to-face service in Centrelink’s offices. In the past we have tended to try to address these problems at an individual level: Chapter 5 of this report includes a series of case studies showing some of those individual investigation outcomes. Unfortunately, fixing problems one case at a time does not always achieve broader, sustained improvements to an agency’s practices.

In May 2013, the Ombudsman wrote to the DHS Secretary to advise that this office would be conducting an own motion investigation into Centrelink’s service delivery. The purpose of the own motion investigation is to test what people tell us about their problems with Centrelink’s service delivery and, as is the case with all such investigations, to contribute to improvements in public administration. We are committed to working with DHS on the issues that we identify and how they can be addressed. The investigation will continue into 2013–14.

Service restrictions

We noticed a slight increase in the number of complaints from Centrelink customers who had been subject to a service restriction, where Centrelink will withdraw or modify the person’s access to its usual service delivery arrangements. Typical service restrictions include limiting a person’s access to face-to-face services; giving the person

‘one main contact’ (usually a senior officer familiar with their case); or limiting a person to ‘write-only’ access. At DHS’ request, we met with some of its Senior Executive to discuss the broader purposes of these service restrictions. These include protecting staff and other customers from abuse or aggression, and ensuring that Centrelink can effectively and efficiently allocate its limited resources in an equitable way.

We have reviewed DHS’ service restriction guidelines (the RSA Decision Making Guidelines 2012) against the key principles that we have set out in a range of published reports and our *Better Practice Guide to Managing Unreasonable Complainant Conduct*. Overall, we consider that DHS’ guidelines are detailed and thorough, and provide sensible and practical guidance to DHS staff. Service restrictions may only be imposed by senior delegated officers, are usually for short periods, and are subject to review. The customer should be advised of the reasons for the restriction and their right to seek a review of the decision. We will be monitoring the extent to which DHS adheres to its guidelines in managing the challenging behaviour of a very small minority of its customers.

Debt recovery complaints

We have continued our discussions with Centrelink about the issues that we identify in complaints about its debt recovery practices. In 2013–14 we intend to focus on problems with Centrelink’s automated decisions to raise family payment debts on the basis of data (or sometimes the absence of data) from ‘trusted sources’ such as the Australian Taxation Office and the Child Support program. We will continue to raise with Centrelink cases where it appears

that the data it is using as the basis for its debt decision is wrong or out-of-date but it is still attempting to recover the debt from the person.

Data transfer problems between Centrelink and Child Support

Last year we reported that DHS had advised us that it had established a Care Review Project. The project was set up to investigate the underlying cause(s) of persistent problems DHS was experiencing in transferring data between the Child Support and Centrelink programs about the ‘care percentage’ (that is, the proportion of time a child spends with each of its separated parents) to be used to calculate those parents’ child support assessment and family tax benefit (FTB) entitlements. We investigated a small number of complaints about this issue in 2012–13 (see, for example, the case studies in Chapter 5 under the heading ‘Data integrity across programs’).

We obtained a progress report from DHS about the Care Review Project in November 2012. DHS advised us that it had already resolved a number of workflow and computer system problems that had been leading to processing errors. It said that further system changes were planned for December 2012 and June 2013. However, there were still significant challenges posed by the need to transfer and apply data to the customers’ records in each of DHS’ separate computer systems (that is, Centrelink, Child Support and Medicare). In February 2013, DHS told us it was looking at ways to integrate the processing of reported changes in care, so that one area of DHS would be responsible for making decisions and implementing the changes on the computer systems for all DHS programs. The number of complaints

we receive about incorrect processing of care data seems to be reducing. We will continue to monitor this issue.

Centrelink's 'reasonable maintenance action test' for family tax benefit

Last year we reported that we had been working for some time with Centrelink and Child Support to improve their processes for administering the 'reasonable maintenance action test' for the FTB. Under this test, a parent entitled to receive more than the base rate of FTB for a child must take what Centrelink considers to be reasonable action to obtain maintenance (that is, child support) from their child's other parent. Usually this involves the FTB recipient applying for a child support assessment and collecting all of it privately, or asking Child Support to collect it for them. If the FTB recipient fails the reasonable maintenance action test, they can only be paid the minimum rate of FTB for the child.

Our most serious concern about Centrelink's administration of this test was the way it explained it to its customers. Centrelink has automated some of the steps for processing new claims for FTB which minimise the chances that a person will miss out on receiving the higher rate of FTB through ignorance or confusion about what Centrelink expects them to do about child support. However, we are still concerned about the way the reasonable maintenance action test is applied in respect of a child who continues to attend secondary school after he or she turns 18. We have investigated several complaints where the child's parent has missed out on the opportunity to extend their child support assessment after the child's 18th

birthday and, as a result, has had their FTB reduced to the base rate. Taking court action to obtain a child maintenance order for the remainder of the school year is unlikely to be a viable option for the parent with primary care. DHS has advised us that it is in discussions with its policy department in an attempt to identify a solution. We will continue to monitor this problem.

Administration of Income Management

Income Management (IM) has applied in the Northern Territory since 2007, and it is now also in place in some other discrete locations across Australia. IM enables Centrelink to manage at least 50% of a person's income support payments to ensure they meet their priority needs, and those of their children.

In June 2012 our office released a report *Review of Centrelink income management decisions in the Northern Territory*, following an investigation into Centrelink's IM decision making. The investigation considered two kinds of Centrelink decisions: the decision to refuse a person an exemption from IM on the basis that they were considered financially vulnerable; and the decision to apply IM to a person on the basis that a social worker had determined the person to be vulnerable. The investigation identified a number of problematic decisions which stemmed from inadequate tools and guidelines to help decisions makers meet the legislative requirements.

Although the investigation focused on these two areas of decision making, the report highlighted problems that are relevant across all aspects of IM. This included

communication and use of interpreters, record keeping, training, and dealing with review and exemption requests. Centrelink accepted the recommendations outlined in the report and had already implemented a number of them by the time the report was released. We undertook to monitor Centrelink's progress in addressing the issues identified in the investigation and, in late 2012, we conducted a further review of sample decisions. Following this review, we prepared another report for Centrelink which acknowledged the improvements made to date and listed a number of issues that, in our view, remained unaddressed. Centrelink is continuing to work on these areas.

We will continue to engage with Centrelink to monitor its progress. We are also assessing these and other IM issues in our investigation of IM-related complaints. This helps us to identify where individual cases point to a bigger problem that requires fixing. Complaints about IM show examples of where Centrelink has not made the most of opportunities to fix deeper problems and improve its administration of IM. Examples are outlined below.

Despite our report highlighting problems with IM decision making, a recent complaint showed that on review, a Centrelink Authorised Review Officer did not consider the mandatory considerations outlined in the legislative instrument when deciding to keep a person on the 'vulnerable welfare payment recipient' measure of IM. A person can be made subject to IM if a Centrelink Social Worker assesses them to be vulnerable and considers that IM will benefit the person. Centrelink has done a lot of work to improve its templates and guidelines to ensure that

staff making these decisions are doing so lawfully and correctly, but this complaint shows that further attention is required.

In November 2010 we received a complaint about people paying rent through IM funds for a dwelling that did not attract a rent obligation. This complaint was investigated with the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) which was responsible for administering the Australian Government's statutory five-year lease over the community (which subsequently expired on 31 August 2012). This placed FaHCSIA in the position of landlord for community housing. FaHCSIA engaged with Territory Housing and Centrelink in order to resolve the matter. This complaint was resolved, after an 18-month investigation by this office, when Centrelink reimbursed the customer's IM account with the money that was owed to them by FaHCSIA.

At the time of this complaint investigation, we were informed by FaHCSIA that Territory Housing had implemented a new process for managing requests for rent reimbursement which involved a better and closer working relationship with Centrelink. FaHCSIA also told us that it had fixed the problem to ensure that people living in these kinds of dwellings in this community were no longer paying rent.

In April 2013 we received a complaint about another seven customers who had been paying rent to live in the same dwellings when they were not required to. We investigated this complaint with Centrelink because Centrelink facilitated the rent payments through Income Management. Of most concern

was the fact that these seven people all live in the same community as the person who was the subject of the November 2010 complaint, and they are affected by the same problem that was raised in that case. The North Australian Aboriginal Justice Agency has been advocating to Territory Housing since January 2011 and Centrelink since January 2012 to have these people refunded their money. We acknowledge that the IM rent deductions for these seven customers had all stopped by April 2012 and that Centrelink's investigation may be complicated because the housing association that collected the rent has told Centrelink that it reimbursed the customers through credits at the local store. However, the issue remains unresolved for the customers affected.

These cases highlight a number of issues across the agencies involved:

- the agencies did not take adequate action to ensure that rent being collected from Indigenous people living in remote communities was in accordance with the policy
- Centrelink paid customers' IM funds to third parties when there was no requirement for the customer to pay rent
- Centrelink's processes did not ensure that third parties who were receiving IM funds operated within the bounds of the contract

- the agencies have been slow in their resolution of these cases and people have been out-of-pocket since 2008 when the payments started.

In another IM-related complaint made to this office, Mr A, who usually lives in Victoria, travelled to the Northern Territory to visit his daughter. Being a resident of Victoria, Mr A is not eligible for the IM scheme. While in the NT, he visited a Centrelink office and was told that he needed to update his address. Centrelink changed his permanent address to the NT address on its system. This meant that Mr A erroneously became eligible for IM. Centrelink sent Mr A an automatically generated letter advising that he was due to go onto IM, but he did not receive it.

Mr A told us that he approached Centrelink on numerous occasions, both in person and by phone, when he returned to Victoria because he noticed that he was only receiving half of his usual Centrelink payment and he was in financial hardship. Despite his repeated contacts with Centrelink, Mr A told us he was unable to resolve the matter. Following an investigation by this office, the issue was resolved and Mr A's income-managed funds were returned to him. Centrelink also arranged for a social worker to assist Mr A with his housing and financial issues at our suggestion.

Complaints about IM show that Centrelink has improved its communication surrounding IM, it has enhanced the capacity for people to access their IM funds and it is assisting more people to apply for exemptions.

However, complaints indicate that Centrelink could further improve its administration of IM by:

- quickly fixing problems for people, particularly where Centrelink has made an error
- looking at the entirety of a person's case to determine the most appropriate response to their circumstances
- escalating entrenched or difficult cases
- ensuring that decision making meets legislative obligations
- improving systems to better capture the circumstances of its customers
- learning from its mistakes.

Reports and submissions (see Chapter 6)

Published report of an investigation: Ms Z

In February 2013 we published a report, *Department of Human Services (Centrelink): investigation of a complaint from Ms Z concerning the administration of youth allowance*. Ms Z was a homeless 16-year-old girl who approached Centrelink for financial assistance. Centrelink eventually decided she qualified for youth allowance at the 'unreasonable to live at home' rate, but she experienced a series of delays and

errors that left her without regular payment. Those delays and errors were attributable to Centrelink's failure to manage her case appropriately. In this case, Centrelink failed to use the procedures it has developed precisely to assist people like Ms Z, both to assess whether they are entitled to receive a payment and to meet various procedural requirements (such as proof of identity checks and obtaining a tax file number). Our investigation led Centrelink to review and strengthen its processes and apologise to Ms Z.

Submissions

Our office often draws on themes and issues identified in our complaint investigations to make submissions to inquiries about a range of government services, programs and policies. In this reporting period, we made a submission to DHS's independent review of the Centrepay Scheme¹ and another submission to FaHCSIA about its exposure draft in relation to the Public Housing Tenants Support Bill (establishing the Housing Payment Deduction Scheme).

Common to these schemes is the capacity for a person's Centrelink benefit to be directed to third parties, although Centrepay is voluntary and the Housing Payment Deduction Scheme, if introduced, is not. The concerns discussed above in relation to IM and Centrelink's service delivery also informed our submissions on these matters.

¹ The (then) Minister for Human Services, Senator the Hon Kim Carr announced an independent review into Centrepay in November 2012.

Centrepay

Centrepay is a voluntary and free bill paying service for recipients of Centrelink payments. Centrepay is the mechanism by which Centrelink makes automatic deductions from a person's payment and transfers those amounts directly to a third party to cover the person's bill or other expenses.

In our submission² we acknowledged the obvious benefits and convenience that the Centrepay scheme offers to Centrelink's customers. However, these benefits are diminished when systems established to administer the scheme cause adverse consequences for customers. Examples covered in our submission included:

- Centrelink assigning part of a person's Centrelink payment to a third party without first obtaining consent from the customer. We believe that without consent, the inalienability of a person's Centrelink payment is compromised. Complaints to our office where this has occurred have shown that people have been left out-of-pocket and have found it onerous and slow to get the Centrepay deductions stopped and the money returned
- vulnerable customers being open to exploitation or financial hardship as a result of a third party organisations adopting inappropriate practices in order to sign people up to Centrepay. While we accept that Centrelink is not responsible for ensuring these third party organisations comply with state-based consumer

protection laws, the ease with which these types of traders appear to be able to access guaranteed payment for their goods through Centrepay requires attention

- Centrelink doing more to help vulnerable customers access the best service for their needs. Centrelink customers will not necessarily know the range of services and assistance that Centrelink provides. Instead of simply facilitating a Centrepay deduction at the customer's request, an integrated approach to helping a customer manage their money and receive a service that most suits their needs should include discussing the range of options or support services available to them to find the best option for their circumstances
- instances where customers, particularly those who are vulnerable, have Centrepay deductions that amount to 80% or more of their payment. We suggested that Centrelink consider ways it could be alerted to situations where deductions amount to a significant percentage of a person's payment and alerting the customer to this, or assessing whether they may need extra assistance.

We are particularly interested in the outcomes of the independent review and any strategies identified to improve the scheme. We will continue to engage with DHS where we identify issues with the scheme.

² www.humanservices.gov.au/corporate/government-initiatives/centrepay-review/

Housing Payment Deduction Scheme

The Australian Government released an exposure draft of the *Public Housing Tenants Support Bill 2013*³ which establishes the Housing Payment Deduction Scheme. The Australian Government described the scheme as being aimed at helping to prevent evictions and possible homelessness of public housing tenants due to unpaid rent. If reintroduced, the Bill would allow public housing costs that have to be paid under a public housing lease to be deducted from the lessee's income support payment, providing they are either in arrears or are at risk of arrears⁴.

The main concern outlined in our submission⁵ was the risk that the scheme, if implemented, would be used to collect from public housing tenants debts that are unconfirmed, disputed or have not been through the appropriate state/territory-based channels for recovery. We also expressed concern about the lack of engagement with the person affected in the decision-making process and the need to ensure procedural fairness and a thorough assessment of a person's individual circumstances before applying the scheme.

In our submission we also warned that complaint investigations by this office about other programs that require cooperation and coordination across levels of government show that weaknesses in the administrative

arrangements between agencies or levels of government can cause confusion and other significant problems. We reiterated that if the proposed scheme is introduced, it is critical that robust and clear processes between the agencies involved are implemented first, and that clear lines of accountability are well established.

This office will monitor the developments in relation to this scheme and will engage with FaHCSIA and DHS to ensure that, if it is implemented, the administration underpinning it is sound.

Indigenous stakeholder engagement

One of our key objectives is to make the Ombudsman's complaint services more accessible to Indigenous people living in remote locations. We aim to achieve this by conducting outreach visits to Indigenous communities, distributing material advertising our role, and engaging with stakeholders who provide services to Indigenous people to assist in the referral of complaints. We have continued to meet with the National Welfare Rights Network, Welfare Rights Centres, legal and advocacy services (in particular, the North Australian Aboriginal Justice Agency) and other support services, both in the Northern Territory and more widely.

3 The Bill was subsequently introduced into the Parliament as the Social Security Legislation Amendment (Public Housing Tenants' Support Bill) 2013, however it lapsed when the Parliament was prorogued on 5 August 2013.

4 www.fahcsia.gov.au/our-responsibilities/housing-support/programs-services/homelessness/exposure-draft-public-housing-tenants-support-bill-2013

5 www.fahcsia.gov.au/our-responsibilities/housing-support/programs-services/homelessness/exposure-draft-public-housing-tenants-support-bill-2013

We have also now established contact with the National Congress of Australia's First Peoples and the National Aboriginal Community Controlled Health Organisation, and we are looking forward to building those relationships.

We are committed to increasing our connections with organisations that work with or represent Indigenous people, particularly those living remotely. This helps to alert us to new problems or gain a deeper understanding of the impact of government programs, services and decisions.



The office aims to make Ombudsman complaint services more accessible to Indigenous Australians. Famous Indigenous ex rugby league player, Steve Renouf, lends his support to outreach in Queensland in 2013. Steve is pictured with a member of the Ombudsman's Indigenous team.

Stakeholder engagement, outreach and education

Our engagement with Centrelink extends beyond our investigation of individual complaints. We have quarterly liaison meetings with DHS to discuss a range of issues arising from our investigation of complaints about all of its programs, but particularly Centrelink and Child Support. We supplement these quarterly meetings with ad hoc meetings, frequently using teleconference or video conferencing facilities, to explore particular issues in more detail. We also obtain written and oral briefings from DHS subject matter specialists about systemic problems and to pursue 'issues of interest' that we identify in the complaints that we receive.

Throughout the year we continued to have ad hoc contact and meetings with the National Welfare Rights Network to discuss matters of mutual interest related to Centrelink's administration. Officers from our Community Services Branch attended the annual conference of the Australian Council of Social Services in Adelaide in April 2013 to hear more about the experiences of people who are customers of Centrelink but may not approach our office when they have problems.

We attended meetings of the DHS Consumer Consultative Group and Service Delivery Advisory Groups, in an observer capacity. Our office is also a member of the Child Support National Stakeholder Engagement Group, and attended three meetings this year which considered matters relating to the administration of the Child Support scheme and the family payments system administered by Centrelink.

Child Support

Child Support assesses and transfers child support payments between separated parents of eligible children. If a child lives with a person other than his or her parents (for example, a step-parent or foster carer) that carer can apply for an assessment of child support payable by the child's parents. Child Support also registers and collects court-ordered spousal and child maintenance payments, and some overseas maintenance liabilities.

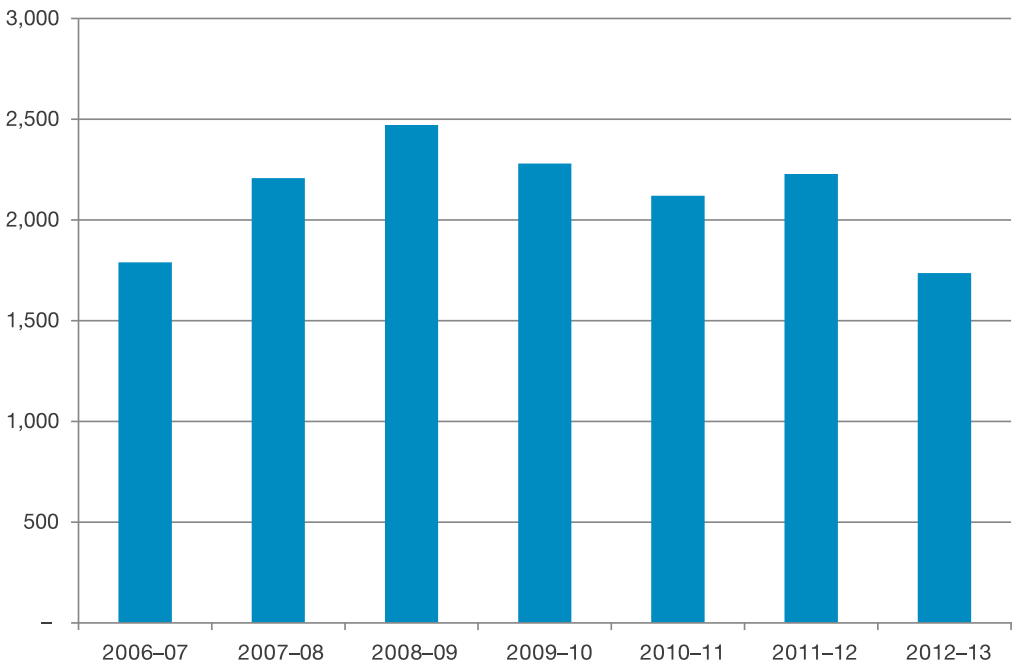
The Ombudsman has jurisdiction to investigate complaints about Child Support's administration of a child support case.

However, the Ombudsman cannot investigate complaints about the actions of a private citizen who is a party to a child support case. We sometimes need to explain this distinction to the people who contact us to complain about their child support case.

Complaint themes

In 2012–13 we received 1,736 complaints about Child Support. This is 28% fewer than in 2011–12, when we received 2,228 Child Support complaints. We investigated approximately 19.3% of the Child Support complaints that we finalised in 2012–13, compared to just over 29% in 2011–12.

Figure 4.2: Number of complaints and approaches about Child Support from 2006–07 to 2012–13



Who is complaining?

We classify the issues in the complaints that we receive about Child Support according to whether the complaint was made by the payee (that is, the person entitled to receive child support) or the payer (that is, the person obliged to pay child support). In 2012–13, 28% of the child support issues that we finalised were in complaints made by the payee (or someone on the payee's behalf). Almost 70% of the child support issues were in complaints made by the payer (or someone on the payer's behalf).

The proportion of complaint issues raised by payers has increased since 2011–12, when the ratio of payer to payee complaints was roughly 2:1. However, there has not been any significant change in the nature of the issues that people complain about: they continue to be about the amount that people are assessed to pay or receive, and the actions that Child Support takes to collect these sums.

Fewer complaints about Child Support

We are unable to point to a single cause for the reduction in the numbers of people contacting us to complain about Child Support. One likely factor is that there have been no major legislative policy or administrative changes affecting the Child Support scheme, so it was a fairly settled year for the Child Support program. There are still some problems associated with the transfer of data between Child Support and Centrelink (which we have discussed earlier in this chapter under the headings 'Data transfer problems between Centrelink and Child Support' and 'Centrelink's

'reasonable maintenance action test' for family tax benefit') the DHS Care Review Project has led to improvements, and the remaining problems tend to have a greater impact on a person's Centrelink payments than their child support case. We were pleased to note a significant reduction in the number of complaints about Child Support incorrectly applying data from Centrelink about the percentage of time a child spends in the household of his or her separated parents. This had been a persistent problem since July 2010.

We also note that the extensive delays that people experience when waiting on the telephone to speak to a Centrelink office are not affecting other DHS programs, such as Child Support. Child Support customers rarely, if ever, complain to us about telephone delays. Another difference between the DHS Child Support and Centrelink programs is that Child Support has been much more open in promoting and encouraging its customers to phone its complaint service if they are dissatisfied with the way their case is being managed.

We are also conscious that, before DHS integration, Child Support staff were strongly encouraged to identify, resolve and escalate complaints using the agency's internal three-step complaints process. It is also likely that a proportion of the people who have called us to complain about Child Support since December 2012 have gone back to the DHS complaint service after listening to the recorded message that we play to each caller (see the discussion earlier in this chapter in relation to Centrelink).

Warm transfers

In our 2011–12 annual report we said that we expected to introduce a process to directly transfer some of the complaints we receive about Child Support to its internal complaint service for resolution. This ‘warm transfer’ process began in August 2012. We obtain the complainant’s consent to the transfer, and invite them to contact us again if Child Support fails to contact them in the agreed time (three days, or shorter for urgent cases), or if they are dissatisfied with Child Support’s response to their complaint.

Consistent with our approach to complaints about Centrelink, through judicious use of ‘warm transfers’ and by suggesting that other complainants call the DHS complaint service, or use their objection and appeal rights to challenge a decision, we have significantly reduced the proportion of Child Support complaints that require investigation by our staff (from just over 29% in 2011–12 to 19.3% in 2012–13).

Overseas cases

In our 2011–12 annual report we discussed our concerns about Child Support’s administration of cases where one of the parents is located outside Australia. We observed that the complaints we had received suggested that Child Support’s administration of some overseas cases was marred by communication problems, delays or a general lack of responsiveness.

Our analysis of the complaints that we received this year about Child Support’s administration of overseas cases suggests that things may be improving. There were very few complaints about recent communication problems for

overseas cases. However, we are currently investigating one complaint where Child Support’s failure to communicate over many years with a paying parent living overseas left that person with a very large Australian child support debt. This is despite the fact that the parent paid what he was ordered to pay by the courts in the country where he lived, which seems unfair. We are exploring what remedy, if any, Child Support can offer this complainant.

Payee overpayments

In last year’s annual report, we mentioned our work in relation to Child Support’s administration and recovery of payee overpayments. At that time, we were investigating several complaints involving Child Support recovering money from the payee to repay to the payer. In each of those cases, the payee’s overpayment was solely attributable to actions of the payer. Two payers had moved to live in countries with which Australia had no maintenance agreement, so their Australian child support assessments ended retrospectively. A third payer lodged a number of overdue tax returns after his children reached adulthood and his child support case had ended. His taxable income was lower than he had originally declared to Child Support, and this resulted in a retrospective change to his child support assessment.

We advised Child Support and FaHCSIA (the department with policy responsibility for the Child Support scheme) of our reservations about their view that the Australian Government was obliged to recover every overpayment of child support. We also expressed our opinion that in each of these cases, it was inequitable for the Australian Government to recover from the payees,

who had received the child support payments in good faith and already spent the money on the children.

We are pleased to report that after considering our view, Child Support and FaHCSIA decided that the Australian Government should not recover our complainant's overpayments, or other overpayments occurring in similar circumstances. Child Support and FaHCSIA cooperatively developed procedures to support this change in policy, for implementation from mid-June 2013. We will be seeking reports from Child Support about its implementation of the new overpayments policy. We also intend to monitor the complaints we receive in future for other situations where it may not be appropriate for Child Support to recover an overpayment from a payee.

We should clarify that it is not our view that Child Support should never recover a payee overpayment. In most situations, the overpayment is legally repayable to the Australian Government and Child Support has a legal obligation to recover it from the payee and, in turn, refund the recovered sums to the payer. Child Support is entitled to take certain administrative recovery actions to recover a payee overpayment, for example, by withholding amounts from the payee's ongoing child support payments, or a tax refund, or asking Centrelink to make deductions from the payee's pension or benefit. However, we are aware that Child Support's computer system does not currently support it to use the full range of administrative recovery options.

We also have a range of concerns about Child Support's procedures for calculating and raising overpayments; notifying the payer and payee of the overpayment; negotiating

the rate of repayment; and administering the recovery arrangement. We wrote to DHS in March 2013 identifying what we consider to be weaknesses in Child Support's procedures for administering and recovering overpayments. We intend to continue working with Child Support to help it improve this area of its administration.

Compensation for missed child support

Last year, we reported our intention to continue our efforts to persuade Child Support to change its approach to claims from payees for compensation for a missed collection opportunity. This occurs when Child Support, through its own error, or through a deficiency in its procedures, fails to collect a sum from a payer. The cases where this happens are quite rare, as it requires a certain collection opportunity that Child Support should have seized but failed to. When it happens, the payee has missed out on the benefit of receiving the sum at the time, but Child Support can still collect it for them in future, when (or if) the opportunity arises. This could be in many years' time, or even never.

We investigated a complaint this year where this problem arose. We suggested that Child Support consider compensating the payee for the amount that it failed to collect, in return for the payee agreeing to allow Child Support to keep the money when it eventually collected it from the payer. Child Support told us that it does not consider the payee has suffered a loss, but merely a delay. Child Support conceded that the sum might not be as valuable if and when it eventually collects it, and it said that it would consider compensating the payee for any loss in value. However, this loss in value will not 'crystallise' until Child Support finally collects the money.

Child Support obtained written support from the Department of Finance and Deregulation (Finance) for its approach to this particular complaint. We remain unconvinced that this approach is fair, particularly if Child Support never collects the sum and the payee's loss never 'crystallises'. We met with Finance in June 2013 to discuss Child Support's approach to claims for compensation for missed collection opportunities, and whether this was in keeping with the restorative aim of the Compensation for Detriment caused by Defective Administration scheme. We will continue to work on this issue, in consultation with Child Support and Finance.

Early release of superannuation benefits

We finalised 122 complaints in 2012–13 about DHS' processing of applications for early release of compulsorily preserved superannuation benefits on compassionate grounds. The most common issues in those complaints were delays in processing applications and decisions that the applicants believed were unfair.

In two cases our investigation led DHS to reconsider and change its decision to refuse to approve early release of the applicant's superannuation. In the course of our investigations, we have commented on the clarity and completeness of the guidelines that DHS has published to assist staff to make decisions on applications which raise complex issues. In May 2013, DHS advised us that it would be reviewing these guidelines in 2013–14 and that it will seek our comments on the revisions before they are finalised.

Australia Post

The Postal Industry Ombudsman's jurisdiction includes the investigation of complaints about Australia Post. As an industry ombudsman, the Postal Industry Ombudsman also investigates complaints about private postal services.

In 2012–13, we received 3,652 complaints and approaches about Australia Post which constitutes 20% of the total complaints and approaches made to our office.

A discussion about complaint themes and the systemic issues we pursued with Australia Post is included in Chapter 7 with the overview of the specialist functions of the Postal Industry Ombudsman.

Australian Taxation Office

Overview

The Taxation Ombudsman role was created in 1995 to increase the focus on the investigation of complaints about the Australian Taxation Office (ATO).

The Taxation Ombudsman appears at the annual hearings of the Joint Committee of Public Accounts and Audit with the Commissioner of Taxation, and provides a review of the ATO's performance based on the complaints we receive and our liaison activities with the ATO. The role does not otherwise confer any additional duties or functions under the Act.

Complaints about the ATO

In 2012–13 we received 1,795 complaints about the ATO, which represents a decrease of almost 34% on complaints received in 2011–12. Overall, complaints about the ATO accounted for 10% of the complaints we received during the year.

Recognising that the most efficient way to resolve time-sensitive complaints is to raise them with the agency concerned, we reviewed and changed our procedures and the introductory messaging on our telephone systems, to better inform and redirect first-time complainants. As a result, the percentage of these complaints reduced from around 50% to less than 20%.

Approximately 50% of complainants approach the Ombudsman without having first raised a formal complaint with the ATO. This is higher than the 40% who do so in relation to other comparatively sized agencies.

A review conducted in conjunction with the ATO revealed that a common feature of these complaints was a time-critical element—for example, a delay in the issue of an income tax refund. In such cases, complainants tended to contact the ATO more than once to enquire about the progress of their return and, if they were not successful, they sought the help of the Ombudsman instead of lodging a complaint with the ATO.

The ATO has escalation processes to quickly address delays and a separate process to prioritise refunds for those in financial hardship. Lodging a formal complaint with the ATO ensures that taxpayers' issues can be appropriately addressed quickly through these processes.

Work continues to provide further improvement in 2013–14.

Complaint themes

The most common ATO complaints received related to:

- delays in income tax refunds
- administrative overpayments
- debt collection
- superannuation.

Income tax refunds

The annual lodgement of income tax returns and the impact of the ATO's Income Tax Return Integrity checking activity remain significant factors in complaints about the ATO.

The ATO uses specialist technology to identify and check income tax returns that may contain missing or incorrect information. Tax refund claims, which the ATO identifies as falling outside of typical parameters, may result in a thorough review of all aspects of an individual's tax affairs before a refund is issued. This can often lead to a delay in issuing the refund, even if the ATO ultimately determines that all is in order.

The effect of Income Tax Return Integrity checking first came to the attention of the Ombudsman in 2011, following an influx of complaints concerning delays. In response to investigations and meetings with our office, the ATO undertook to improve its service delivery by, among other things, improving its communication with taxpayers and tax agents.

We are pleased to note that the ATO took into account the feedback provided by this office and has improved its communication with taxpayers.

In 2012–13 complaints relating to lodgement and processing issues accounted for almost 26% of all ATO complaints.

Administrative overpayment

During the year we investigated a number of complaints about overpayments made by the ATO as a consequence of an error caused by a system change.

Taxpayers who had included a lump sum payment (their final pay from their employer) in their tax return approached the Ombudsman after receiving a tax bill from the ATO as a result of an ATO systems error. The taxpayers had initially received a larger than expected tax refund and had contacted the ATO to check and confirm that the refund was correct. The ATO confirmed that the refund was correct and the taxpayers planned their finances accordingly.

However, the following year, the ATO contacted the taxpayers and informed them that a systems error had caused incorrect refunds to be issued. The taxpayers had, in fact, received larger refunds than they were entitled to, and now owed the excess amount to the ATO.

The ATO acknowledged that while the situation was caused by a systems error, the *Tax Administration Act 1953* does not allow it discretion to release a taxpayer from a debt created in these circumstances. The ATO offered an apology to those affected and worked to establish practical repayment arrangements to recover the debts.

While we recognise that system errors can occur, we consider that as a general principle, a taxpayer acting in good faith should be able to rely on information provided by the ATO call centres.

Although the system error has since been fixed, we continue to work with the ATO to reduce the impact on taxpayers through early detection, better communication and identifying available measures to mitigate any financial detriment.

Debt collection

Multiple accounts

Debt collection remains a persistent cause of complaints to the Ombudsman. In 2012–13 around 23% of ATO complaints related to the ATO's debt collection issues.

A common theme identified by our office involved complainants who said that they only became aware of the debt after being contacted by a debt collection agency or after their bank account was garnisheed. The debt usually related to Pay As You Go instalment accounts rather than an income tax debt. We established that the problem typically related to multiple accounts maintained by the ATO for the taxpayer—for example, in relation to Pay As You Go, income tax, goods and services tax or superannuation. Taxpayers, however, are frequently unaware of the separate accounts or the need to update contact information relating to each of those accounts.

The ATO agreed to ensure that call centre staff inform callers wanting to change their address of the need to update their contact details in respect of other accounts, if they have them. The ATO also agreed to expand the information on its website concerning change of address, to provide a more practical guide.

The ATO advised us during the year that work was well underway to introduce a new online service which would allow individual

taxpayers to access and update their personal tax information and transactions. This service was introduced in April 2013.

Director liability

Since the expansion of the director penalty legislation in June 2012, the ATO has been able to hold company directors personally liable for both the income tax withholding and superannuation obligations of the company. This was an important step in counteracting ‘phoenix’ activity, where companies could close down and re-open as a new entity, leaving unpaid withholding tax and superannuation contributions. It also means directors can be held liable in circumstances where they have failed to honour their responsibilities as a director. However, the issue of personal liability can become clouded in cases of family companies where, following a marriage breakdown, husband and wife directors reach an agreement in the Family Court.

The Ombudsman received complaints from individuals who, as part of a divorce settlement, reached an agreement that one party became solely responsible for the debts of the company in exchange for the other party giving up company ownership or directorship.

The ATO advised that it is not bound by Family Court decisions as it is not a party to these decisions. The appointment and cessation of a director is the responsibility of the Australian Securities and Investments Commission, which is the ATO’s source of information on the registration status of a company and relevant director appointment dates. The ATO maintains that, while the individual is registered as a director, they

remain liable for company debts relevant to their period of directorship, and a director penalty notice can be issued.

We do not consider it unreasonable for the ATO to issue a director penalty notice to a currently registered director. However, we have asked the ATO to consider the advice it provides to taxpayers in these circumstances, particularly around referral to the Australian Securities and Investments Commission for advice on the question of registration or to seek independent legal advice.

Superannuation

In 2012–13 nearly 10% of complaint issues we recorded related to superannuation and unpaid superannuation guarantee payments.

Complaints about unpaid superannuation contributions are typically made by employees who are unhappy with the ATO’s response to their enquiry. Concerns often focus on delay, lack of information or uncertainty about the ATO’s progress towards collecting unpaid superannuation.

Investigations conducted by the Ombudsman revealed that the ATO treats enquiries about unpaid superannuation seriously but privacy and taxpayer confidentiality provisions restrict it from providing information concerning the tax affairs of another party (the employer) to anyone other than that person or an authorised representative.

Overall, we found that the ATO follows due process in dealing with superannuation enquiries and has recently reviewed its advice letters to improve their clarity.

Other matters

Communication

We continued to provide feedback to the ATO in relation to its letters and other communication with taxpayers.

The ATO undertook a special project to identify and review the top 10 letters that generate contact with its call centres or complaints. The ATO continues to consult the Ombudsman on the progress of the project which is well advanced and covers a cross-section of topics.

During the year we raised with the ATO the issue of providing prompt advice to taxpayers of system errors or outages, particularly those which the ATO considers may lead to processing backlogs or unavoidable delays. For example, a problem with the tax file number registration system led to a backlog in registrations work, resulting in applicants experiencing a delay in receiving their tax file number.

The Ombudsman received a small but significant number of complaints regarding this delay. We suggested to the ATO that providing early advice of the delay on its website would likely reduce the need for applicants to contact its call centres and may prevent subsequent complaints.

We note that the ATO has successfully applied the early advice principle, particularly in the Income Tax Return Integrity program, where communication has improved overall.

E-tax lodgement using non-windows-based operating systems

Complainants have approached the Ombudsman over several years about the lack of availability of the ATO's e-tax system to those who use Apple Mac or Linux operating systems.

The ATO advised our office that it intended to make e-tax available to the other platform users but that a major systems upgrade was underway and further work will be undertaken following the upgrade. It advised that it had included the operating system upgrade as part of its five-year forward work plan.

The ATO also advised that information on its website explains that taxpayers could purchase emulation software that make Apple Mac and Linux operating systems e-tax-lodgement-capable. The cost of the purchase is tax deductible; however, the taxpayer could only claim that portion of the cost that was related to preparing and lodging the return or managing tax affairs.

We suggested to the ATO that while the possibility of tax deductibility is an advantage, the apportionment—if the purchased program is used for purposes other than using e-tax—makes this option unnecessarily onerous. The options available to those affected are to use an e-tax machine at an ATO shopfront; to use the services of a tax agent; to lodge a paper return; or to outlay money to purchase software. We noted that the lack of availability of e-tax did not make it easier for these taxpayers to comply with their lodgement obligations. The ATO undertook to give due consideration to the matter and subsequently advised that e-tax would be available for Apple Mac users from 1 July 2013.

Department of Immigration and Citizenship

Complaints

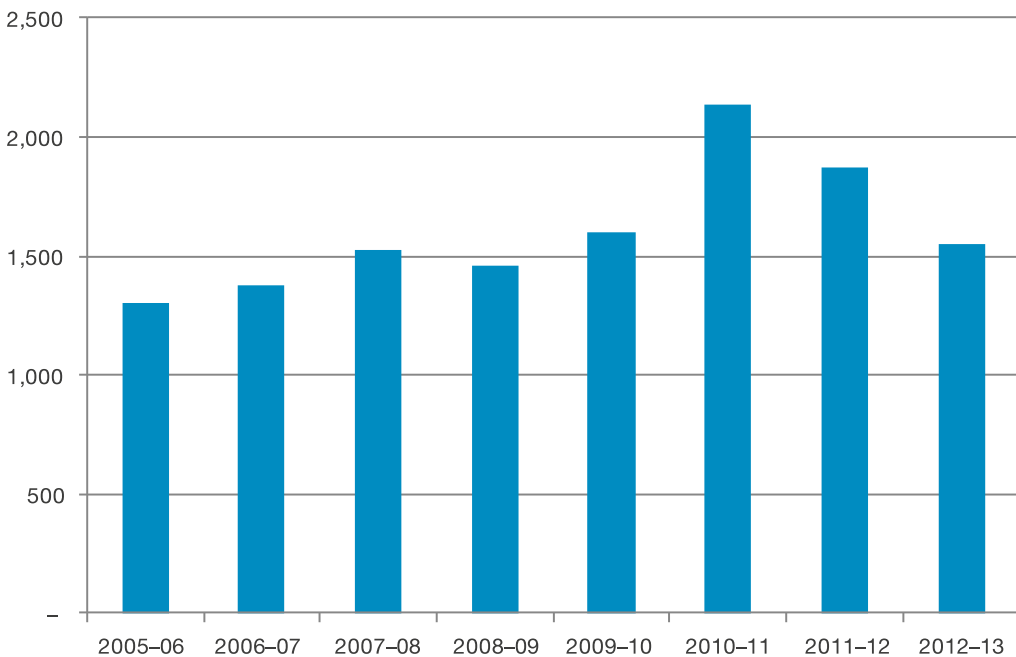
Complaints about the Department of Immigration and Citizenship (DIAC) decreased in this financial year. Overall, we received 1,547 complaints about DIAC compared to 1,873 in the 2011–12 financial year and 2,137 in the 2010–11 financial year. We finalised 1,547 complaints in 2012–13.

DIAC’s internal complaint handling process is through its Global Feedback Unit. Our office, in consultation with DIAC, has recently introduced a ‘warm transfer’ process. Under this process,

certain complaints are transferred back to DIAC’s Global Feedback Unit for resolution in the first instance or to give DIAC a second opportunity to resolve the complaint where we think that is the appropriate course of action. This process builds a collaborative relationship between us and DIAC and is designed to ensure quicker and more efficient resolution of complaints.

We investigated 16% of complaints received about DIAC in 2012–13 compared with 15% in 2011–12, and we were able to facilitate remedial action in 60% of these cases. Complaints by people in immigration detention accounted for 24% of complaints we received about DIAC and we investigated 43% of these complaints.

Figure 4.3: Number of complaints and approaches about the Department of Immigration and Citizenship from 2005–06 to 2012–13



Our complaint investigation this financial year has achieved positive outcomes for some individuals, such as:

- better explanations for some decisions
- refunds on visa application costs
- highlighting errors which have resulted in DIAC departing from the original decision and making a fresh decision
- assisting visa applicants in cases where there was unexplained delay beyond service standards.

Engagement with DIAC

We regularly meet with DIAC's Ombudsman and Human Rights Coordination Section in order to resolve systemic issues affecting good administration. DIAC also provides our office with regular briefings about developments in immigration policy and legislation, such as visa pricing changes. We have continued to attend high-level quarterly meetings with DIAC which provide an opportunity to discuss emerging issues and any concerns that we have identified during our inspection and review activities.

Complaint themes and systemic issues

Perceptions of delays, deficient advice and incorrect decision making continue to generate the majority of complaints in relation to both detention and migration programs generally. Many complaints relate to services delivered by non-government service providers on behalf of DIAC. The majority of complaints concerning migration programs relate to applications for family visas or skilled visas.

The Ombudsman identifies recurring issues through complaints and monitors these through an Issues of Interest register. An example is the refusal of visa applications based on the genuine visitor and genuine student criteria to ensure consistency in the application of 'genuineness' criteria.

Service delivery in immigration

Delay in processing

One of the main causes of complaints to this office is perceived delays in finalising processing on immigration matters. Complaints about delays have related to a range of activities, including visa processing for Family, Business and Tourist Visas; complaint handling by DIAC's Global Feedback Unit; completion of medical clearances; refugee status assessments; access to property in immigration detention; and access to health services by detainees.

Our complaint investigations function at times highlights delays occurring in particular overseas posts or in relation to a particular group. By investigating such complaints we assist DIAC in determining the cause of delay and whether or not the delay is systemic in nature and likely to affect a large number of people. This, in turn, facilitates remedial action.

The case study about Mr BB 'policy not followed' in Chapter 5 illustrates the difficulty in identifying the cause of delays in some circumstances, and the importance of providing clear pathways for escalating complex applications or unusual issues.

Deficient advice

Another common source of complaints we receive about DIAC is inaccurate or incomplete advice, or the perception of inaccurate and incomplete advice. We acknowledge that the complexity of law and policy relating to immigration presents a challenge to the provision of clear, accurate and complete advice. This is especially true where staff are giving advice across a range of programs to clients who come from a wide variety of backgrounds, some with specific vulnerabilities such as lack of English language comprehension.

The role of DIAC's Global Feedback Unit in clarifying or correcting deficient advice is often crucial to restoring the client's relationship with, and trust in, the agency. Examples of deficient advice which emerged from complaint investigations this year included:

- incorrect advice about review rights in a letter template
- incomplete advice about entitlement to a refund
- incomplete advice about options in relation to visa applications and processing.

The case study about Ms FF 'visa confusion' is an example of how incomplete advice can cause less than optimal outcomes for clients.

Relationships with contracted service providers

Like many government agencies, DIAC provides a range of services through non-government service providers that are private sector or community organisations. The management of services through

third parties presents a challenge for accountability and governance in the delivery of public services. The service provider may be delivering the service and interacting with service recipients but DIAC generally retains statutory responsibility for ensuring that the service is delivered in accordance with legislative and policy requirements.

Among other things, DIAC engages service providers to:

- operate detention facilities
- provide re-settlement services for refugees
- provide health services for people in immigration detention
- provide medical assessments to visa applicants.

We receive complaints from people about the provision of these services and about DIAC's handling of complaints about service providers. Proactive engagement with service providers—through measures such as training and regular consultation—will influence the extent to which services are delivered appropriately. The management of complaints about third party providers is also a tool for ensuring accountability in service delivery.

Oversight of third party service providers was also a theme in the *Suicide and self-harm in the immigration detention network* report issued by the Ombudsman in May 2013. This report highlighted, among other things, the limitations in DIAC's system for collecting and reporting data from service providers about the incidence of serious self-harm. In order to address this problem, DIAC has conducted a review of the detention service provider's delivery of incident reporting to

assess the quality, accuracy and timeliness of incident reporting and has agreed to conduct post-incident reviews. DIAC has advised our office that it is proposing to implement best practice incident management reporting in immigration detention facilities.

The case study about Ms HH ‘lost complaint about settlement’ in Chapter 5 is an example of proactive complaint handling by DIAC in relation to a complaint about a third party service provider.

Immigration detention inspections

Details of the immigration detention facilities that our office inspected are included in Chapter 7 of this report. During the course of the year, we have noted a consistently high operational tempo across the immigration detention network. Despite the increased level of operations, we noted an overall improvement in function and processing in the immigration detention network, in particular:

- a high level of movement of detainees from Christmas Island to mainland facilities and into the community on Residential Determinations or Bridging Visas
- a significant decrease in incidents of self-harm across the network
- the introduction of network-wide detainee property management guidelines
- a network-wide improvement in the management of detainee welfare
- the introduction of a network-wide programs and activities framework that has an increased focus on the provision of meaningful activities for detainees

- improvements in the administration and management of the Brisbane Immigration Transit Accommodation and Scherger Immigration Detention Centre
- improvements in the management of transport and escort functions in Darwin, Scherger and Brisbane immigration detention facilities
- an ongoing willingness of staff and detainees in the respective facilities to work together to address issues and complaints.

We remain concerned about the use of immigration detention facilities that are located in remote and isolated areas of Australia. These include the Scherger Immigration Detention Centre outside Weipa (Queensland), the Curtin Immigration Detention Centre outside Derby (Western Australia) and Christmas Island (Indian Ocean Territories).

We are also concerned about overcrowding across the detention network, with a number of facilities at—or exceeding—their contingency capacity at the time of this report. The manner in which the Enhanced Screening Process is applied to certain groups of irregular maritime arrivals is a matter for concern, as is the ongoing management of long-term detainees and those who remain as a ‘person of interest’.

With regard to the amenities at immigration detention facilities, we note with concern:

- the ongoing use of ‘temporary’ facilities to house family groups on Christmas Island
- the absence of suitable sporting and recreational facilities in the Aqua and Lilac compounds on Christmas Island

- a deterioration of facilities for family groups and unaccompanied minors on Christmas Island
- the limited facilities available for family groups at Curtin Immigration Detention Centre
- the ongoing concerns about security provisions at Scherger.

We also noted inconsistencies and varying quality in administrative processes and procedures applied across the network. Areas of concern included methods of managing detainees' property, risk assessments, incident reporting, Individual Management Plans, case notes and supporting documents.

In addition, we noted some concerns about transport processes and procedures, including:

- Transport and Escort Movement Orders
- the notification and processing of transfers from Australia to Regional Processing Centres
- processes surrounding the management of air transfers and direct boat arrivals in Darwin
- procedures on Christmas Island to disembark new arrivals when the boat ramp—rather than the jetty—is used during monsoonal weather.

Reports and submissions

The Ombudsman released a report under section 15 of the Ombudsman Act in May 2013. This followed an investigation that was prompted by several deaths and incidents of self-harm in detention facilities, along with observed deterioration in the psychological health of detainees, particularly on Christmas Island. (See Chapter 2 and Chapter 6 for details on this report.)

Future/emerging issues

In relation to our immigration oversight role, we envisage that one of our priorities in 2013–14 will be to monitor DIAC's compliance and removal activities. Particular areas of focus will include the use of warrants in DIAC's compliance activities and the removal of people from Australia who have had their visa cancelled under section 501 of the Migration Act.





5

65 | Case Studies

The Ombudsman at work **CASE STUDIES**

Case Studies

In this chapter, we explore the theme of ‘good service delivery’ in Australian Government agencies through a range of case studies, based on complaints we investigated in 2012–13.

Dissatisfaction with the level of customer service from an agency is a common issue in the complaints we receive about all Australian Government agencies. The majority of these case studies illustrate initial poor service delivery, but the remedy for the complaint is also part of the agency’s overall service delivery. We do not expect an agency to achieve perfection first time, every time.

Good service delivery includes having:

- clear and accurate information available for customers about the services they can access
- clear policies and procedures to guide staff responsible for dealing with customers and making decisions
- training for staff so they understand what is expected of them
- having adequate resources (people, computers, telephones and offices)
- having mechanisms to address issues as they arise, including a mechanism for dealing with complaints.

We think it is crucial that an agency recognises that mistakes will be made even when it has these fundamental elements of good service delivery in place. It must therefore have robust processes to ensure that when mistakes happen, they can be identified and corrected promptly, with a minimum of fuss.

The case studies below illustrate the types of complaints we received and some of the outcomes that have been achieved for complainants, both individually and systemically.

Individual Remedies

Remedies for a complaint will vary depending on the issue complained about, the expectations of the complainant and the rules or framework that govern the decisions or actions that are the subject of the complaint.

In individual complaints, the range of remedies available may include a better explanation of the reasons for a decision, getting the decision changed, or the award of compensation.

Sometimes, an individual complaint can bring to light an administrative problem which will impact on many people subject

to the administrative process or framework. In these cases our investigations often lead to systemic improvements.

The case studies in this chapter highlight some of the outcomes achieved for individuals and in wider reaching improvements in agency administration.

Department of Defence

Ex-serviceman's war service medals

In 1949 World War II service medals were sent by the Department of Defence to an address in Sydney. Due to a council boundary change, the medals were never received by the ex-serviceman they were intended for. He passed away in 2010 without ever seeing the medals that were awarded to him.

Efforts by the ex-serviceman's family to have the medals sent to them by the Department of Defence were unsuccessful. The explanation provided to the family was that the medals had been duly 'issued'.

In September 2011, six decades after the medals were sent out, the ex-serviceman's brother, Mr A, approached our office seeking assistance to obtain the medals. We encouraged Mr A to attempt to resolve the matter directly by putting his evidence of the council boundary change and non-delivery of the medals to the Directorate of Honours and Awards.

In November 2011, Mr A came back to our office noting that his efforts had been unsuccessful. We investigated the matter and advised the Department of Defence that, based on the information provided by the agency, we could not be satisfied that the medals had been issued.

Mr A provided our response to the Prime Minister's Office. In May 2013, Mr A advised that the medals were being issued to the family.

Department of Human Services: Centrelink

Write-off of family tax benefit debt

Ms B received family tax benefit (FTB) for her children, which is paid subject to an income test. Each year, an FTB recipient and his or her partner must lodge their income tax returns to show that the FTB recipient was entitled to the payments they received from Centrelink for the financial year. Ms B's partner had not lodged income tax returns for the financial years 2004–05, 2005–06, 2006–07 and 2007–08. As a result, Centrelink raised a debt of around \$56,000 against Ms B for the FTB she received in those years.

When Ms B separated from her partner in 2010, Centrelink decided to temporarily suspend (write off) recovery of her FTB debts. The temporary write-off was inadvertently cancelled on 15 March 2011. The error was partially corrected in September 2011 and the debts for the 2005–06, 2006–07 and 2007–08 financial years were again temporarily written off. However, during the period March 2011 to September 2011, Centrelink withheld all of Ms B's FTB top-up payments and income tax refunds to recover her FTB overpayments.

As a result of our investigation, Centrelink fully corrected the error in October 2012. Centrelink wrote off the FTB debt for the 2004–05 financial year and returned approximately \$9,800 to Ms B that had been incorrectly applied to her written-off debt. Centrelink also apologised to Ms B for its mistake.

Payments to deceased pensioner

Mrs C's sister, Miss D, died in July 2011.

Mrs C called Centrelink with advice about her sister's death immediately after being informed by the police. A Centrelink officer called the funeral director who was arranging Miss D's funeral. Even though Centrelink received confirmation that Miss D was dead, it took no action to cancel, or suspend Miss D's disability support pension (DSP) because the funeral director could not provide the exact date of Miss D's death.

Centrelink continued to pay Miss D for a further three-and-a-half months until the exact date of her death was made known. Mrs C says she did not receive any letters from Centrelink about her sister's DSP during this time. Mrs C did not have access to her sister's bank account until the estate was finalised in January 2012, and was unaware of the continued payments. She had assumed that Centrelink had taken appropriate action on the advice she had given.

In November 2011 Centrelink raised a debt of over \$4,400 for the overpayment of DSP. It sent a debt notification letter to the executor of Miss D's estate, which was addressed to Miss D's former home address. Although Mrs C had a redirection order in place for her sister's mail, she did not receive any correspondence from Centrelink. It was not until October 2012 when Centrelink wrote directly to Mrs C at her home address that she discovered the estate had been overpaid. Mrs C maintained that she had acted in good faith but Centrelink was not satisfied that she had done so and decided to recover the debt.

Following our investigation of her complaint, Centrelink reconsidered her request for a waiver of the debt due to administrative error. The debt was waived in full in February 2013.

In this case, there was no dispute that Miss D had died. The only fact in question was the exact date she had died. Had Centrelink suspended her DSP in August 2011, when the officer contacted the funeral director and confirmed that Miss D had died, the overpayment would have been for only 21 days rather than 73 days. The start date for the debt, if any, could have been assessed at a later point when the exact date of death was known.

Australia Post

Non-delivery of parcel

Ms E complained to Australia Post about a parcel which was sent to her address but not delivered. In response, Australia Post advised her that the contractor had confirmed the item was delivered. Ms E explained to Australia Post that the parcel was too large to fit in her mailbox and that her property was surrounded by a large fence. Ms E submitted photographs of her mailbox to Australia Post at its request but Australia Post did not contact her again as promised. Australia Post subsequently sent the sender a refund of postage which was inconsistent with its finding that the parcel had been delivered.

Following our investigation, Australia Post advised us that it had misinterpreted the photographic evidence Ms E had provided. An Australia Post staff member visited the property and confirmed that the parcel could not have been delivered to Ms E's address and was likely to have been incorrectly delivered. As a result, Australia Post agreed to compensate the sender for the full value of the sent item.

Australian Taxation Office

Administrative errors on tax assessment

Mr F, a pensioner living in an aged care facility, contacted the Ombudsman as he was worried about a large debt he had incurred after lodging his annual income tax return. Debt collectors were pursuing him for payment of the debt but he had no means to pay.

Mr F complained to our office as he believed there was a mistake with his return as, instead of a small refund, he received a bill. Mr F had written to the Australian Taxation Office (ATO) about his tax return but he had not received a reply.

Our office asked the ATO to review the matter. The ATO, after considering Mr F's age and circumstance, decided to place debt collection activity on hold while it completed the review.

The ATO determined that keying errors had occurred on Mr F's tax return. The ATO corrected the errors and issued an amended assessment which provided a refund plus credit interest. The ATO also wrote to Mr F to advise him of the outcome of the review. Mr F wrote to our office to acknowledge the helpful assistance provided by the ATO Complaints area in resolving his issue.

Department of Human Services: Medicare

Claims for two services on the same day

Mr G complained that Medicare had rejected claims that he submitted for two separate services provided on the same day. This was not the first time Mr G had this problem, but Medicare had given very detailed

instructions to him and the medical centre to make sure that it did not recur.

When we investigated Mr G's complaint, we identified that the correct information was provided by the relevant medical centre, but Medicare staff had not followed correct procedure. Our contact in Medicare identified 11 specific errors in staff not reading the entire text of information provided by the medical centre. This meant Medicare mistook two separate services which did occur on the same day as an attempt to make a duplicate claim for the same service.

In response, Medicare apologised to Mr G and reminded its staff of the correct procedure for processing claims for multiple services on the same day. Medicare also gave Mr G a direct number of an officer to call if the problem happened again.

Incorrect rebate information

Mr H, who speaks little English, complained to our office in July 2012. Medicare had provided him with a handwritten quote stating that he would receive \$727.70 for his Medicare rebate entitlement for medical treatment under the Enhanced Primary Care Scheme. Following treatment, Mr H lodged his claim with Medicare and received a rebate payment of \$245.00. His complaint to Medicare was dismissed. It appears that Medicare did not consider providing an interpreter to ensure that Mr H was made fully aware of his entitlement in relation to a claim.

Medicare acknowledged that it provided Mr H with incorrect rebate information and that it was evident that he decided to proceed with dental work on the basis of this information.

We asked Medicare to consider assisting Mr H to lodge a claim for compensation under the Compensation for Detriment caused by Defective Administration scheme, with the assistance of an interpreter.

In June 2013 Medicare advised that it had decided to offer compensation of \$485.00 to Mr H. Mr H advised that he was happy with this outcome but not with the time it had taken.

Systemic Remedies

In some cases, the administrative error in one individual's case has also occurred in a number of other cases. When this becomes apparent, we seek rectification of the problem as well as an outcome for the individual complainant. In many cases, complainants raise an issue with us even after they have received a satisfactory outcome, specifically so that a systemic problem can be corrected before it happens to anyone else.

Department of Human Services: Centrelink

Mailing of sensitive documents

Ms J complained that her documents for an Administrative Appeals Tribunal appeal arrived in an envelope which was ripped and torn. Centrelink had sent them via normal post in a normal envelope.

We investigated and learned that there was an informal practice of using normal envelopes and regular post. Registered post was considered too expensive unless the tribunal had made a confidentiality order or there was another feature that made the material particularly sensitive.

We did not consider it unreasonable for Centrelink to consider that registered post was too expensive. However, as a result of Ms J's complaint, Centrelink has decided to institute use of 'tough bags' for transmission of tribunal documents. These should provide better protection for documents at minimal increased cost to Centrelink.

Australia Post

Disputed delivery of an eParcel

An item purchased online by Ms K was dispatched via eParcel. Australia Post records showed it was delivered and that a signature had been obtained.

Ms K told our office she did not receive the item: she was at work on the day of delivery and no-one else was at her home to sign for the item. Australia Post advised Ms K to ask the sender of the parcel to complain, which she did, and Australia Post provided a copy of the signature. The sender was satisfied that the item had been delivered, and chose not to take any further action. Australia Post said it would not investigate.

Our investigation found that Australia Post had no record of an initial contact from Ms K. However, her emails to the sender indicated she had obtained advice from Australia Post about how to pursue the matter with the sender.

Australia Post told our office that in cases of disputed signature and delivery, a certified copy of the signature should be obtained and an investigation should be logged. In addition, the delivery person should be contacted and attempts made to retrieve the parcel if it has been mis-delivered.

In Ms K's case, Australia Post did not follow these procedures and did not engage with the sender or Ms K.

If Australia Post had asked Ms K to provide evidence of her signature at an earlier stage, it is likely that the complaint could have been resolved sooner and without our involvement.

As a result of this complaint, Australia Post confirmed it had changed its procedures. Staff who receive a complaint about a disputed signature are now required to immediately record the complaint and investigate it with the relevant delivery office.

Contractor issues resolved

Ms L sent a ring valued at \$1,000 to her sister, who did not receive it. When she complained, Australia Post claimed the customer had signed for the item but Ms L disputed this.

In response to our investigation, Australia Post acknowledged that it should have requested a copy of her sister's signature when Ms L disputed the contractor's advice. Australia Post provided feedback to the Team Manager in relation to this. Australia Post's Security and Investigation group found other irregularities with signatures obtained by the contractor.

The contractor no longer works for Australia Post and has been placed on a list of people who will not be considered for future contracts. Australia Post agreed to pay Ms L discretionary compensation to the full value of the items.

Department of Immigration and Citizenship

Clothing for female detainees

When we visited an immigration detention facility in Darwin, detainees raised a concern about the suitability of the clothing issued to female detainees. The facility had a policy of providing only unisex clothing that included two long or short sleeved t-shirts, one pair of shorts and one pair of tracksuit pants regardless of gender. The absence of optional skirts and dresses for wear by females was raised with us during a group discussion with the detainees who expressed concerns about this practice, in particular:

- personal hygiene issues associated with wearing nylon tracksuit pants in tropical climates and needing to wash them on a daily basis. The women also advised that they were effectively confined to their rooms while their trackpants dried as it was culturally and religiously inappropriate for them to appear in public in shorts or any other attire that did not cover their legs
- the cultural insensitivity displayed by issuing shorts to married women and the assumption that this would be acceptable clothing for any married woman regardless of culture
- the religious insensitivity displayed by issuing shorts to adult Muslim women
- the age insensitivity displayed by expecting older women to wear shorts or pants.

When we raised these concerns with the Regional Management of the detention centre, we were advised that this practice would cease and that culturally appropriate female clothing suitable to tropical climates would be made available to the detainees.

Department of Human Services: Medicare

Long delay on Medicare payment

Ms M had been waiting for three months to receive a Medicare payment. She complained that when she contacted Medicare about the delay, she was told she may need to wait a further three months.

In response to our investigation, Medicare advised us that Ms M's claim was for treatment over five years ago and that it could not pay her claim until it checked records held by another department to ensure that no prior claim had been made for the same treatment.

As a result of our investigation, Medicare processed Ms M's claim and advised it would review its claim processes, including more efficient access to records.

Australian Taxation Office

Records needed checking and updating

Ms N contacted the ATO after discovering that her superannuation guarantee contributions had not been paid by her employer. Following an investigation, the ATO advised that the employer was under administration and suggested that Ms N contact the administrators to pursue the missing contributions.

Ms N contacted the ATO and advised them that the employer was no longer under administration but that her superannuation guarantee contributions had still not been paid. After further unsuccessful contact with the ATO, Ms N contacted the Ombudsman.

As a result of the Ombudsman investigation, the ATO searched relevant registration information and confirmed the administration had ended, as advised by Ms N. It updated its records and pursued recovery of the unpaid contributions. The ATO has undertaken to apologise to Ms N and to update its procedures to improve the process of checking and updating its records in these kinds of circumstances.

Automated system decisions

Our report, *Automated-assistance in administrative decision-making better practice guide* (2007), recognised that automated systems, which are increasingly being relied on by Australian Government agencies, play a significant and beneficial role in administrative decision making. However, it cautioned that care must be taken to ensure that their use supports administrative law values of lawfulness, fairness, rationality, openness and efficiency. Agencies also need to address access and equity concerns by continuing to provide alternatives to automated assistance, such as phone and face-to-face services.

The case studies below highlight the importance of having a mechanism for addressing any inadequacies or faults with automated systems or instituting a temporary manual workaround to ensure there is not undue delay where a customer is likely to suffer adversely.

Department of Human Services: Centrelink and Child Support

Data integrity across programs

The following two case studies demonstrate problems in the transfer of data between Centrelink and Child Support under the ‘alignment of care’ process. The ‘alignment of care’ initiative was intended to remove the need for parents and carers to separately advise parts of the Department of Human Services (DHS)—Child Support and Centrelink—when their children’s care arrangements change. It was also intended to ensure that the two parts of DHS use the same information: Child Support for the purposes of payment of the child support liability between parents; and Centrelink to ensure that the correct family tax benefit (FTB) is paid based on the percentage of time the child spends with each parent.

Computer glitch with exchange of care data

Ms O complained to this office on 13 April 2012 that her child support case was ended from the same date that it started due to what Centrelink called a ‘data integrity issue’. This information was automatically transferred to Centrelink in its usual exchange of care data, and consequently created an overpayment of her FTB. Centrelink asked Ms O to start paying back the overpayment of \$2,600 while it investigated the problem.

Although Centrelink was aware from 30 March 2012 that the overpayment was created by an error, it decided to delay correcting Ms O’s FTB payments until Child Support had resolved the ‘data integrity issue’ and restored her child support entitlement. This is despite Ms O contacting Centrelink on 16 April and 24 April 2012.

Our investigation revealed that although Child Support had completed a submission for correcting the errors on 20 April 2012, and despite Ms O advising that she was in financial hardship, Child Support did not expedite the resolution of the issue nor contact Centrelink to discuss a workaround to reinstate her FTB. Child Support approved the correcting errors submission of 23 May 2012 and Ms O was paid her entitlements.

Data processing error

Mr P contacted this office on 31 October 2012 because Centrelink had taken his tax refund to pay for a debt it had raised for an apparent overpayment of FTB. Mr P had contacted Centrelink on 8 October 2012 to advise that it had incorrectly recorded the care percentage for his children which had resulted in the incorrect calculation of his FTB entitlements and a resulting debt. His telephone call to Centrelink was disconnected before the problem was sorted.

Centrelink sent Mr P a form to complete as it had understood that Mr P had wanted to inform them of a change to his care percentage, rather than make a correction. Mr P contacted Centrelink again on 25 October 2012 and stated he should not have to complete the form as the shared care information recorded on his Centrelink record was incorrect.

On 30 October 2012 Centrelink amended the shared care percentage effective from 31 January 2012. When this data was transmitted to Child Support, Child Support amended their records but erroneously deleted previous care information for two of Mr P’s children. Child Support’s incorrect information was then transferred back to the Family Assistance Office.

As a result of our investigation, DHS confirmed that there was a known system error which had occurred on Mr P's case. While working on a system resolution, DHS instituted a manual workaround to ensure that Mr P received the correct payment. They also sent around an internal message to ensure that all staff were made aware of the manual workaround that was available.

Computer error leads to hardship

Ms Q advised our office in July 2012 that Centrelink had raised a debt of about \$33,000 against her in December 2011 and ceased paying her FTB and parenting payment (single). She had queried the raising of the debt and the cessation of her payments and said that Centrelink conceded those actions were undertaken in error.

Ms Q said Centrelink described the problem as an 'IT error' and said it would be fixed and her payments reinstated. However, Ms Q advised our office that the problem had still not been fixed by July 2012. Ms Q said she made calls and sent emails to Centrelink every few weeks about the problem, without resolution.

Ms Q told us that without her Centrelink payments she was not able to provide for her son, who subsequently moved to live with his father in March 2012. She said that she was also unable to afford to pay her rent and moved out of her home of 12 years.

Ms Q told us that recovery of the debts was due to commence in November 2012 by garnishee from her wages.

Centrelink confirmed that a data integrity problem compromised Ms Q's record, resulting in an incorrect automatic Determination that her child was not an eligible FTB child, and caused the re-reconciliation of Ms Q's FTB payments for the 2008–09, 2009–10 and 2010–11 income years and the creation of debts for those years. Centrelink confirmed that the data integrity problem had been identified in December 2011 and referred for technical assistance at that time, and Ms Q was verbally advised of the problem.

In response to our investigation, Centrelink reduced to zero the three FTB debts for the 2008–09, 2009–10 and 2010–11 income years. However, Ms Q subsequently advised our office in August 2012 that she had a new FTB debt of \$4,837.84 raised against her for the 2011–12 income year. Centrelink confirmed that the problem had recurred with the 2011–12 year. It again temporarily wrote off the debt before reducing it to zero in September 2012. Centrelink also made back-payments to Ms Q of FTB amounting to \$302 and \$883, and advised us that all matters arising out of the data integrity problem had been resolved. At the conclusion of our investigation, Centrelink apologised to Ms Q for its delay in correcting the data error.

Active management of unresolved difficult cases

As noted earlier, we believe one of the hallmarks of good administration and service delivery is not that no mistakes are made, but that agencies show active and timely management of complex cases.

Department of Health and Ageing

Sub-standard aged care services for Indigenous people

Mr R had complained to the Department of Health and Ageing (DOHA) on a number of occasions about sub-standard aged care services being delivered to residents in a remote Indigenous community. DOHA was the agency responsible for funding the services.

Mr R contacted our office saying his complaints had not been adequately dealt with, and expressing concern that the elderly people in the community were not receiving the necessary services. As a result, staff at the Indigenous art centre had stepped in to fill the gap by helping to shower, clothe, manage hygiene and transport the elderly around the community.

DOHA told us they had been aware of the service problems for some time and they had been actively working with the provider to improve the quality of its services for elderly people in the community. Following our enquiries, DOHA addressed the service problems by transferring the responsibility to another established aged care provider with the capacity to deliver the required services.

Cross-agency issues

Many Australian Government agencies work collaboratively, including sharing research and data, to deliver government programs and services under a whole-of-government approach. This can happen informally or—more usually—through inter-agency agreements such as memoranda of understanding. As shown in the complaints of Ms O and Ms Q above, there is data exchange between Centrelink and Child Support programs in DHS. This also occurs between Centrelink and other agencies, such as the Department of Immigration and Citizenship (DIAC), the Department of Education, Employment and Workplace Relations and the Australian Taxation Office (ATO), as outlined below.

Centrelink and Department of Immigration and Citizenship

Official birth date dispute

Ms S contacted us in late 2011 after Centrelink suspended her Youth Allowance payments. Centrelink had received information from DIAC that showed Ms S's date of birth was different from the date in Centrelink's records. DIAC's records said she was born in 1996, while Centrelink's records said she was born in 1987. Ms S said that both dates were wrong and she was actually born in 1990.

Ms S had been receiving Youth Allowance from Centrelink since she arrived in Australia as a refugee in 2004. Ms S did not have a passport or a birth certificate, but given that she had finished secondary education and was in her second year at university,

it seemed unlikely that DIAC's records were correct as this would mean she was now only 16 years old.

When we started our investigation, Centrelink conceded that DIAC's date of birth was probably not correct, but said it was obliged to adopt DIAC's date of birth because it was the 'official' date for a person born overseas. Centrelink told us that it could not restore Ms S's Youth Allowance unless and until DIAC changed Ms S's 'official' date of birth. DIAC had refused to change its records, because although it accepted its records were wrong, it was not satisfied that Ms S's claim that she was born in 1990 was correct, because it did not consider her documents reliable.

Ms S applied to the Office of the Australian Information Commissioner for a review of DIAC's decision. We told Centrelink that we considered it was unfair for them to refuse to pay Ms S while this review was being conducted, and Centrelink restored Ms S's Youth Allowance.

The Office of the Australian Information Commissioner eventually decided that DIAC's record of Ms S's date of birth was wrong and changed Ms S's 'official' date of birth. Centrelink amended its records accordingly. Centrelink has now revised its procedures so that people in Ms S's situation would not be left without an income while they attempt to correct their official date of birth.

Failure of data transfer

Ms T complained to this office on 31 August 2012, as she had not received her FTB lump sum payment from Centrelink and was in severe financial hardship, including being behind on her rent.

Lump sum FTB is paid at the end of the financial year, on the basis of information from a tax assessment completed by the ATO and automatically transferred to Centrelink. Ms T was told conflicting information from the ATO and Centrelink about where the process was up to. The ATO had told Ms T that the information had been transferred twice to Centrelink on 10 August and 23 August 2012, but on 4 September Centrelink advised her that it still had not received the data.

It was not possible to clearly identify which agency was primarily responsible for the failure of the data transfer, but we believe Centrelink should have taken more responsibility to attempt to find a solution that would enable Ms T to be paid her FTB entitlement more quickly.

Parenting payment mistakenly stopped

Ms U's parenting payment stopped as the Centrelink system suddenly considered that she was no longer qualified. Centrelink told her that the matter was a 'glitch in the system' and that she should be qualified for parenting payment, but it could not pay her until the glitch was fixed. After complaining to our office and already going without payments (and having to contact charitable organisations to obtain food for herself and her young daughter) for six days, Centrelink was able to re-grant her payment.

An investigation by our office showed that it was not a 'glitch in the system' preventing payment, but a situation where her payment was mistakenly automatically cancelled. The time taken to provide Ms U with a payment was due to Centrelink needing to obtain policy advice from the Department of Education, Employment and Workplace Relations in relation to Ms U's ongoing qualification.

Centrelink did provide social worker support and some emergency financial assistance to Ms U while it investigated why her parenting payment had stopped. However, it accepted that it did not take reasonable steps to initiate a solution to this problem in a more timely manner and advised that it regretted the inconvenience and financial hardship caused to Ms U.

Unreasonable delay

Unreasonable delay is an example of shortcomings in decision making that leads to adverse outcomes, as illustrated in the complaints below.

Department of Immigration and Citizenship

Inaction delays refund

Mr V applied for a citizenship certificate and paid the required fee of \$60. He was advised by DIAC that he was entitled to a refund of the \$60 fee due to his name being displayed incorrectly on the certificate produced. However, after many months the fee had not been refunded to him. DIAC had advised Mr V that the delay was due to a technical problem.

After making the complaint to us, Mr V's money was refunded. However, we decided to investigate to determine the cause of the delay, which was more than six months. DIAC responded by saying that although there were some obstacles to be overcome, the fundamental cause of the delay was inaction rather than any technical problem. DIAC provided Mr V with a formal written apology and counselled its staff in relation to escalating such matters in future.

Australian Taxation Office

Income tax return delay

Mr W lodged his income tax return through a tax agent and was expecting a large return. Mr W advised that he was homeless and was waiting on the refund to enable him to resolve this issue.

His income tax return was delayed, and efforts to expedite the processing of the return under hardship arrangements were unsuccessful. Mr W then complained to the Ombudsman.

Following our contact, ATO Complaints ensured that Mr W's claim was finalised and that payment was processed manually and credited to his tax agent's trust account.

Complex decision making

Transparency in decision making is essential to ensure customers can access any review rights they may have. Agencies also need to analyse wrong decisions to find out whether there are any systemic problems that need to be addressed, or policy or legislative changes to be considered, as demonstrated in these case studies.

Department of Human Services: Centrelink and Child Support

Family Tax Benefit confusion

Ms X complained to us that her FTB had been reduced, and she did not understand why. The letters she received from Centrelink advised her of the new reduced rate of FTB and contained the statements that her rate 'includes affecting maintenance' and

'the amount of child support you receive may reduce your payments'. Ms X continued to receive the same amount of child support as before, which she collected privately from her former partner.

Our investigation found that Centrelink had retrospectively reduced Ms X's FTB because Child Support had amended and increased her child support entitlement following an investigation into her former partner's income. Ms X had not received Child Support's letters advising her of her increased entitlement to child support and was now being paid FTB on the basis that she had or would collect the increased amount of child support. This was incorrect.

As a result of our investigation, Centrelink reassessed Ms X's FTB and cancelled the debt that it raised on the assumption that she had already collected the child support from her former partner. Ms X has now asked Child Support to take over collecting from her former partner on her behalf.

Importance of good communication

Good service delivery to customers relies on clear communication between the agency and the consumer. Agency decisions will only be correct if they are based on complete and accurate information from the customer. In order to know what they must tell the agency, the customer needs to be supported by accurate, timely advice from the agency. This advice can be given orally, whether on the telephone, or in person, or through printed information provided on websites, in brochures and through individual correspondence.

Department of Human Services: Centrelink

Missing information in customer letters

Ms Y complained to this office on 16 November 2012 that Centrelink had been assessing her rate of disability support pension (DSP) based on out-of-date information about her partner's periodic compensation payments. Those payments had ceased on 27 March 2009 but continued to be recorded on Ms Y's Centrelink record as her partner's 'other income', even after Centrelink removed the information from the periodic compensation screen.

Ms Y applied for compensation under the Compensation for Detriment caused by Defective Administration scheme, and Centrelink agreed to compensate her for 75% of her loss on the basis that she had not queried the amount included under 'other income' in her original grant of DSP letter. We were concerned that subsequent letters to the grant letter did not include information about all types of income used in the assessment of her DSP entitlement.

Customer's debt confusion

Ms Z complained to us that her FTB had not been paid as she had not completed her tax returns. She was in financial difficulty and was about to be made homeless. She had a substantial debt which she did not understand which she was paying off and did not know whether she had asked Centrelink to review the debt. When she contacted Centrelink she was told she would need to lodge her tax returns, which she did, but she did not receive her FTB payment when expected. When she did receive her FTB, most of it was taken to pay off the debt.

As part of our investigation, we asked Centrelink to contact Ms Z and explain the debt verbally and in writing. Centrelink sent Ms Z a detailed letter explaining what the debts were for and how they arose, and instigated a review. Ms Z said that she now understood the debts and was in a better position to understand what she was appealing.

Australian Taxation Office

Audit issues

Mr AA, a tax agent, lodged an income tax return for his client. After two months, the ATO wrote to the client to advise the return was subject to audit checks. The ATO asked him to provide receipts to substantiate some of the deductions claimed.

The client provided the requested information within the agreed timeframes. After not hearing further from the ATO four months later, Mr AA wrote to the ATO and asked for an update on the progress of the audit, but did not receive a reply. One month later, Mr AA wrote again and the ATO responded with a letter advising the outcome of the audit. Some deductions were disallowed and the client was issued with a notice of assessment, which included penalties.

Mr AA complained to the ATO about the delays and stated that some adjustments to his deductions were made without seeking further information. Mr AA was not satisfied with the response and complained to the Ombudsman.

Following our contact, the ATO provided a full explanation of the adjustments and acknowledged the errors and delays. The ATO apologised to Mr AA and his client and offered support to correct the errors through the objection process.

Consistency of decision making

Although policies should not be applied inflexibly, it is important that they guide the decision maker to ensure consistency of decision making. Customers should also be able to rely on a department applying its procedures consistently. One of the hallmarks of good customer service is when customers feel that they are treated with respect, and their views are listened to, sought out and responded to.

Department of Immigration and Citizenship

Policy not followed

Mr BB lodged a Subclass 119 Visa application on 29 June 2012, the second last day before this subclass of visa was discontinued. Due to a large volume of applications received at that time, DIAC did not process the application until 6 July 2012. His credit card payment for the visa fee was declined and, as a result, his application was treated as not valid. As the Subclass 119 Visa no longer existed, the effect of that decision was that Mr BB could not reapply for that visa.

During our investigation, we discovered that DIAC had not followed its policy which suggested that an applicant should be contacted at least twice over a period of two days to enable rectification of an application that would otherwise be invalid. On reconsideration, DIAC agreed to contact Mr BB and give him the opportunity to rectify the application.

Identity confusion

Mr CC became an Australian citizen in 1972. He recently applied for an Australian passport and was advised that he first needed to apply for evidence of Australian citizenship. However Mr CC, as is common for people of his cultural background, has a number of middle names which are not recorded in the same way on each of his identity documents.

DIAC returned Mr CC's application for evidence of citizenship to him with the advice that he would need to provide all identity documents in his current legal name. Mr CC provided DIAC with a declaration indicating that he is known by different names. However, DIAC was still not satisfied about Mr CC's identity. Mr CC was concerned, as he was due to travel outside Australia.

Our office contacted DIAC and confirmed that it was actively working on Mr CC's case. DIAC requested additional information from Mr CC which was sufficient to satisfy the delegate that he was entitled to a citizenship certificate, and worked with him and other agencies to ensure he was able to obtain a passport. Cases such as this, involving clients from different cultural backgrounds with different naming conventions, have provided useful training material for DIAC officers.

Inconsistent agency outcomes

The following two complaints about overseas students illustrate different responses to complaints between educational providers.

Overseas students

Positive service delivery and speedy rectification

An overseas student, Mr DD, contacted this office complaining that his Vocational Education and Training provider had refused his application to transfer to another education provider and was taking no action on his refund request.

We investigated and found that Mr DD had applied to transfer to a course that was not starting for more than two months, which was too big a gap to satisfy the conditions of his Student Visa. As a result, the provider had asked him to obtain another confirmation of enrolment for a course starting sooner, which he had just done.

When we contacted the provider, they had already acted on the new enrolment document, granting the transfer and approving the refund. The speed with which Mr DD's applications were processed was an example of positive service delivery by a private education provider.

Agency delays refund

We investigated a complaint from an overseas student, Mr EE, who had been granted a conditional enrolment into Year 10 high school studies but had then failed to meet the required English language proficiency entry level after completing an English course with the same provider. He applied to withdraw and receive a refund for the high school course which he could not commence. However, the provider refused to pay him a refund, saying he had to study its English course instead.

Mr EE's brother complained to our office and we investigated the matter. We found the provider appeared to have breached several standards of the National Code of Practice for Education Providers, including accepting an enrolment agreement signed by an under-18-year-old instead of his parents and failing to release Mr EE to study at any English college he chose after he failed to meet the English entry requirement for the high school course.

We recommended the provider release Mr EE to study with another provider and pay Mr EE a refund as the enrolment agreement was invalid. The provider then took two months to pay the refund, despite our advice that they were obliged by law to do so within four weeks. We told the provider that if similar issues arise in the future, we may make a public disclosure to the regulator, the Australian Skills Quality Authority.

Different complaints' processes

The Ombudsman promotes agencies developing their own complaint service which accepts complaints as core business providing valuable material to inform improvement to service delivery. Our emphasis is on referring complaints back to the agency to give it the opportunity to resolve the complaint first. The following complaints to the Ombudsman highlight agency differences in handling complaints.

Department of Immigration and Citizenship

Visa confusion

Ms FF, partner of Mr GG, an Australian citizen, was granted a Provisional Partner Visa in January 2010. Ms FF's two dependent children were included in the visa. It was a condition of the children's visas that they enter Australia by 25 September 2010. However, for personal reasons Mr GG and Ms FF chose not to bring the children to Australia by this date. In April 2012, Ms FF applied for a Permanent Partner Visa, with the children as secondary applicants. In the process of assessing the application, DIAC found that the children had not entered Australia at all.

DIAC gave advice on options, including that the children could be removed from the current Permanent Visa application so that Ms FF's application could go ahead and then new visa arrangements could be made for the children if and when it was decided they were going to migrate to Australia.

Ms FF reluctantly withdrew the children from the Permanent Visa application and her visa was granted immediately.

Mr GG, concerned about whether the advice about removing the children from the application was correct, attempted to clarify the matter with DIAC. After the exchange of some correspondence and telephone contact, he was advised that DIAC had provided correct advice and would not be responding to the issue again.

We investigated and found that DIAC had not advised Ms FF of all the options available, and the full impacts of all these options on the family, and that Ms FF did not understand that it may not have been necessary to remove the children from the application.

DIAC accepted that its incomplete advice to Mr GG and Ms FF about the options available in respect of the children's visa led to less than optimal outcomes.

DIAC reviewed how the problem with the advice arose and agreed to apologise to the family.

Lost complaint about settlement

When Ms HH arrived in Australia under the humanitarian program, she and her family were settled in Town X with the assistance of a DIAC-funded humanitarian settlement service. Ms HH contacted our office and complained that she felt unsafe in Town X and wanted to move to Town Y, but that neither DIAC nor the settlement service were helping her.

When our office contacted DIAC, they confirmed they had no record of Ms HH lodging a complaint with them. DIAC also explained that the settlement service was only funded to arrange accommodation for each client once—but that there was a process to provide additional funding in certain circumstances.

DIAC contacted the settlement service about the matter and between them they were able to establish the basis of Ms HH's concerns. DIAC advised the settlement service to submit to them a request for duplication of services, along with supporting documentation. DIAC advised that they would then make a decision about whether or not to support duplication of services.

DIAC also advised that the settlement service had contacted a community organisation in Town Y to assist with finding the relevant real estate agent to locate appropriate accommodation.

Department of Human Services: Medicare

Failure to recognise a review request

Mrs JJ complained about a debt Medicare raised for rebates for treatment her husband received under his mental health treatment plan without a valid referral. Mr and Mrs JJ were unaware of the problem with the referral and Medicare incorrectly paid claims for Mr JJ's services, but it was now seeking to recover \$1,800 from Mrs JJ (as the claimant).

As part of the correspondence between Mrs JJ and Medicare, a letter she sent in June 2012 was treated as a freedom of information (FOI) request. While there was information in the letter that would suggest Mrs JJ may have been making an FOI request, in the circumstances it could also have been treated as a review request. By treating it only as an FOI request, Medicare inadvertently delayed the review process. As a result of our investigation, Medicare agreed to conduct a review of the debt and decided not to recover it from Mrs JJ.

Australia Post

Redirection failure

Ms KK requested a 10-month redirection of her mail but the redirection failed. She contacted our office six months after the redirection was supposed to start, having still received no redirected mail. Ms KK had complained to Australia Post a number of times, and each time Australia Post advised that the redirection was working.

Following our investigation, Australia Post identified deficiencies in the handling of Ms KK's complaint, established the cause of the ongoing failure, and refunded the total redirection fee to Ms KK.

Overseas students

Internal appeal the first step

An overseas student, Mr LL, contacted our office to complain that his education provider intended to report him for poor attendance. He also alleged the provider's education services were of poor quality.

We transferred the quality aspects of his complaint to the regulator, the Australian Skills Quality Authority for consideration. We contacted the provider regarding the attendance matter and confirmed the student had not yet accessed the provider's internal complaints and appeals process, with the deadline due to end the next day.

The provider agreed to give Mr LL a one-week extension to lodge an internal appeal. This represents good service delivery and encourages students to access their provider's internal complaints and appeals processes to try to resolve issues directly with their provider in the first instance. They can then contact our office if they are unsuccessful.

Department of Human Services: warm transfers for vulnerable customers

Where callers have not pursued their complaint with an agency's internal complaint service, we generally refer them back to the agency to do so. Over the past year, we have developed a practice of 'warm transfers' where vulnerable callers are transferred directly to the Department of Human Services (DHS). DHS will make contact with the caller within three days or less if the matter is urgent. With their permission, callers are transferred under this arrangement if they are homeless, without payments or suffering financial hardship due to a decision of DHS.

Under this arrangement, we do not investigate the complaint, but callers are invited to contact the Ombudsman if their complaint is not resolved through this process. We followed up a number of people who had been transferred in this way to check that the process was working. Most people had received contact from DHS within the timeframe we had specified and reported that their complaint had been resolved. Some callers reported that the process had led to a speedy resolution of a problem they had tried to sort out with Centrelink but had been unable to for a variety of reasons. These included difficulty with access through phone delays and an inability to access face-to-face services due to isolation, disability and other issues. The complaints below show positive outcomes experienced by callers transferred through this process.

Payment delay resolved

Ms MM had become the sole carer of her children for the past two months and found herself in the position of having no money to buy food or pay rent. Centrelink was still paying family tax benefit (FTB) to the children's father who no longer had care of the children. Ms MM had applied for FTB but had been told by Centrelink she wouldn't get any payments and had to return the children to live with their step-mother, with whom they had lived while their father was in prison. Ms MM's mother said she had been supporting her daughter but had since run out of money herself.

Ms MM provided Centrelink with documents from both maternal and paternal grandmothers, school enrolment forms and other material which showed that Ms MM had care of the children. Ms MM and her mother said they had many contacts with Centrelink, but had been told conflicting stories and were

at the end of their tether. Ms MM was also unhappy that the children's father has been paid the Schoolkids Bonus when he did not have care of the children and had not made any contribution to their school costs.

We transferred the complaint directly to Centrelink. Ms MM contacted us two weeks later to thank us for referring the complaint, and to advise us that Centrelink had contacted her within two hours of the complaint being referred and had sorted out her complaint very quickly.

Money returned to homeless customer

Mr NN, who has a mental illness, lodged tax returns for 14 years through a tax agent and expected a significant refund. At Centrelink's request, the ATO withheld \$8,700 from his refund to recover a Centrelink debt. When Mr NN called our office he was homeless, staying in a backpackers' hostel and had no money for food. He had been

hoping to use the refund to get himself established somewhere and to pay off traffic fines and regain his driver's licence. He told us that he was trying to get a Newstart Allowance but had to walk 10 kilometres in 35-degree heat to get to a Centrelink office.

We asked Centrelink to contact Mr NN within 24 hours. Centrelink immediately granted Mr NN an emergency payment of \$100 to cover food and taxis. Two days later, Centrelink advised us that they had granted Mr NN the Newstart Allowance (backdated for two weeks) and provided a payment of \$588.80 in arrears. Centrelink advised that Mr NN may also be entitled to rental assistance arrears.

Centrelink advised that they returned \$4,000 of the tax return to Mr NN, and he advised us that the money was in his bank account that same morning. Mr NN said he was happy with the outcome and thanked our office.







The Ombudsman at work

INVESTIGATIONS, REPORTS AND SUBMISSIONS

6

Investigations, Reports and Submissions

Two of the key strategies for the Office of the Commonwealth Ombudsman for 2012–13, as outlined in the Portfolio Budget Statements 2012–13, are to:

- conduct own motion investigations and produce publications that promote good public administration, and
 - contribute to broader public debate which promotes good public administration and accessibility of government program design and implementation.
- *Department of Education, Employment and Workplace Relations (DEEWR) and Department of Innovation, Industry, Science, Research and Tertiary Education (DIISRTE): Administration of student refunds under the Education Services for Overseas Students (ESOS) Act 2000 (Report 06/2012).*

Summaries of our published reports are provided below.

In addition to these reports, we published a number of statutory reports based on our law enforcement inspection and immigration detention review functions.

This chapter outlines our work this year in these two areas.

Reports

Reports released in 2012–13 were as follows:

- *Department of Immigration and Citizenship (DIAC): Suicide and self-harm in the immigration detention network (Report 02/2013)*
- *Department of Human Services (Centrelink): Investigation of a complaint from Ms Z concerning the administration of Youth Allowance (Report 01/2013)*

Inspection reports of the surveillance devices records of the Australian Crime Commission (ACC), the Australian Federal Police (AFP) and the New South Wales Police were published in September 2012 and of the ACC, AFP and the Victoria Police in March 2013. Inspection reports of the controlled operations records of the Australian Crime Commission and the AFP were published in September 2012.

Inspection reports of the examinations conducted by the Director of Fair Work Building and Construction were published in November 2012.

Immigration statutory reporting under section 486O of the *Migration Act 1958*

on 631 people who have been detained in immigration detention networks for two or more years were tabled in the Parliament in August 2012, September 2012, October 2012, November 2012, March 2013 and June 2013.

Report summaries

Suicide and self-harm in the immigration detention network

In May 2013 we published a report, *Department of Immigration and Citizenship (DIAC): Suicide and self-harm in the immigration detention network*, following an investigation which was prompted by several deaths and incidents of self-harm in detention facilities, along with observed deterioration in the psychological health of detainees, particularly at Christmas Island.

We were limited in our ability to draw conclusions about the reasons for self-harm because of limitations in the data that DIAC and its service providers maintained in relation to self-harm. However, the report identified a strong correlation between the average time in detention and the increase in self-harming behaviour during 2011. The report made nine recommendations to DIAC concerning, among other things:

- data collection
- management and reporting
- review of deaths and serious incidents of self-harm
- information delivery and engagement with detainees
- prioritisation and processing of asylum claims and requests for Ministerial intervention.

DIAC accepted eight of the recommendations in full or in principle and noted one recommendation which it is having continuing discussions about with another agency.

Investigation of Youth Allowance complaint

In February 2013 we published a report, *Department of Human Services (Centrelink): investigation of a complaint from Ms Z concerning the administration of youth allowance*. Ms Z was a homeless 16-year-old girl who approached Centrelink for financial assistance. Centrelink eventually decided she qualified for youth allowance at the 'unreasonable to live at home' rate, but she experienced a series of delays and errors that left her without regular payment.

Those delays and errors were attributable to Centrelink's failure to manage Ms Z's case appropriately, using the procedures it has developed precisely to help people like her. They should have used these processes both to assess whether Ms Z was entitled to receive a payment and to meet various procedural requirements, such as proof of identity checks and obtaining a tax file number.

Our investigation led Centrelink to review and strengthen its processes and apologise to Ms Z.

Investigation of student refund administration

In December 2012 we published a report, *Department of Education, Employment and Workplace Relations (DEEWR) and Department of Innovation, Industry, Science, Research and Tertiary Education (DIISRTE): Administration of student refunds under the Education Services for Overseas Students (ESOS) Act 2000*.

This followed an investigation into a complaint from an overseas student, Mr A, about a decision made by the ESOS Assurance Fund Manager.

Mr A was studying with a school which closed part way through his studies. Mr A had paid \$49,000 for the course. The ESOS Act provided that when an education provider closes or ceases to offer a course to overseas students, the provider has obligations to either refund the total amount paid for the course or arrange for the student to be offered a place in a suitable alternative course. Mr A was not placed in a suitable alternative course at the time the fund manager decided to partially refund approximately \$32,500. Mr A subsequently complained to the Department of Education, Employment and Workplace Relations about the fund manager's decision and sought a review. After we became involved, the department liaised with the fund manager and a new decision was made to refund a further \$16,500 to Mr A.

As a result of our investigation of the department and the fund manager, the fund manager conducted a further review of some 480 payments made to other overseas students in similar circumstances and subsequently paid out \$2.1 million in refunds to 308 overseas students. In January 2011 the department made changes to the way they monitored the fund manager and their policy position on granting refunds to comply with the 1 July 2012 changes to the ESOS Act.

Submissions

One way our office contributes to broader public debate about matters of public administration—in addition to our investigations and inspections

reports—is to make formal submissions to reviews and inquiries, including those by parliamentary committees.

The submissions we made in 2012–13 were to the:

- Inquiry into the Public Interest Disclosure Bill 2013 by the Standing Committee on Social Policy and Legal Affairs
- Inquiry into the Public Interest Disclosure Bill 2013 by the Standing Committee on Legal and Constitutional Affairs
- Roundtable on international education by the Standing Committee on Education and Employment
- Inquiry into Potential Reforms of National Security Legislation by the Parliamentary Joint Committee on Intelligence and Security
- Joint Committee of Public Accounts and Audit Annual Public Hearing with the Commissioner of Taxation (this involved a joint response with the Australian Taxation Office and a separate submission).

We also made a number of submissions to government inquiries, including the:

- Department of Families, Housing, Community Services and Indigenous Affairs exposure draft to the Social Security Legislation Amendment (Public Housing Tenants Support) Bill 2013
- Independent Review of the Department of Human Service's Centrepay System
- Dr Allan Hawke AC review of the *Freedom of Information Act 1982* and the *Australian Information Commissioner Act 2010*.







The Ombudsman at work

SPECIALIST AND OTHER ROLES

7

Specialist and other roles

In addition to the Ombudsman's role in investigating complaints about the administrative actions of Australian Government departments and agencies, we have a number of specialist oversight functions.

These include the following responsibilities:

- **Defence Force Ombudsman:** investigate complaints about the Australian Defence Force relating to or arising from present or past service
- **Law Enforcement Ombudsman:** oversee Australian Government law enforcement agencies, including joint responsibility for handling complaints about the Australian Federal Police (AFP) with AFP's Professional Standards
- **Immigration Ombudsman:** investigate complaints, conduct visits to immigration detention facilities, and report to the Immigration Minister in relation to people who have been in immigration detention for two years or more
- **Taxation Ombudsman:** investigate complaints about the Australian Taxation Office
- **Postal Industry Ombudsman:** investigate complaints about Australia Post and other postal or courier operators that are registered as a Private Postal Operator
- **Overseas Students Ombudsman:** investigate complaints about problems that overseas students or intending overseas students may have with private education providers in Australia.

In addition to these specific specialist Ombudsman roles, our office also has the following functions:

- statutory responsibility for compliance auditing of the records of law enforcement and other enforcement agencies in relation to the use of covert powers
- a role as an active participant within the international community of Ombudsman organisations, with a focus on sharing experience in complaint handling and fostering good public administration within various countries in the Asia Pacific Region
- (over the past five years) oversight of the administration of programs for Indigenous communities under the Australian Government's Northern Territory Emergency Response and Closing the Gap initiatives in the Northern Territory. Funding for this role has now ceased, but a focus on Indigenous programs remains one of our priorities.

- This chapter reports on these specialist Ombudsman roles (except for the Taxation Ombudsman, which is dealt with in Chapter 4), and other functions over the last year.

Defence Force Ombudsman

The office received 509 complaints about defence agencies compared with the 662 complaints in 2011–12, a decrease of 22%. ‘Defence agencies’ include the Australian Defence Force and cadets, the Department of Veterans’ Affairs, the Defence Housing Authority, as well as the Department of Defence (Defence).

Complaints from serving or former members of the Australian Defence Force are usually investigated by the Defence Force Ombudsman. Complaints typically involve Australian Defence Force employment matters, such as:

- pay and conditions
- entitlements and benefits
- promotions
- discharge
- delays involving the ‘redress of grievance’ processes or decisions by defence agencies regarding Compensation for Detriment caused by Defective Administration claims.

Our office does not have jurisdiction over employment matters involving Australian Public Service employees working in Defence agencies.

Defence-related complaints from members of the public are usually investigated by the Commonwealth Ombudsman. Typically, these matters involve military aircraft noise, contracting matters and service delivery issues.

The office received 30 complaints about redress of grievance processes. Of the 27 matters considered, 24 involved delays. We do not consider redress of grievance complaints falling within the 180 day processing timeframe allowed by the Department of Defence.

On 26 November 2012 the Minister for Defence announced the establishment of the independent Defence Abuse Response Taskforce. This taskforce was given the role of assessing individual allegations of abuse in Defence that occurred before April 2011. During January and February 2013, 22 matters referred to this office by law firm DLA Piper during their Review of Allegations of Sexual and other Abuse in Defence were transferred (with the consent of the complainants) to the Defence Abuse Response Taskforce.

The Defence Force Ombudsman provided ongoing advice and input to an internal review of complaint handling processes initiated by the Department of Defence.

Throughout the year the Defence Force Ombudsman undertook some outreach and stakeholder engagement activities, including attending the Naval Cadets forum and presenting at the Air Force School of Administration and Logistics on the role of the Defence Force Ombudsman.

Law Enforcement Ombudsman

When performing functions in relation to the Australian Federal Police (AFP), the Ombudsman may also be called the Law Enforcement Ombudsman. The Ombudsman has a comprehensive role in overseeing the AFP which includes:

- handling complaints about the AFP
- receiving mandatory notifications from the AFP regarding complaints about serious misconduct involving AFP members, under the *Australian Federal Police Act 1979* (the AFP Act)
- reviewing how the AFP handles its own complaints under Part V of the AFP Act (referred to as 'Part V reviews').

Part V reviews

Part V of the AFP Act details how the AFP must deal with complaints made about its members. This forms the basis of the AFP's complaint management processes.

The AFP Act also requires the Ombudsman to review the AFP's administration of Part V at least once each financial year, and to report the result of the reviews to the Parliament. When conducting our reviews, we consider matters such as whether:

- communication with complainants was reasonable
- complaint investigations were reasonably conducted
- complaint outcomes were reasonable.

In November 2012 we tabled a report in the Parliament on our activities under Part V of the AFP Act. This report is available on our website.

Stakeholder engagement and outreach and education activities

Our relationship with the AFP is cooperative and constructive. In 2012–13 we engaged regularly with the AFP to ensure a common understanding of the AFP's processes and the purpose of our oversight function. For example, the AFP regularly invited us to provide comments on relevant policies and procedures.

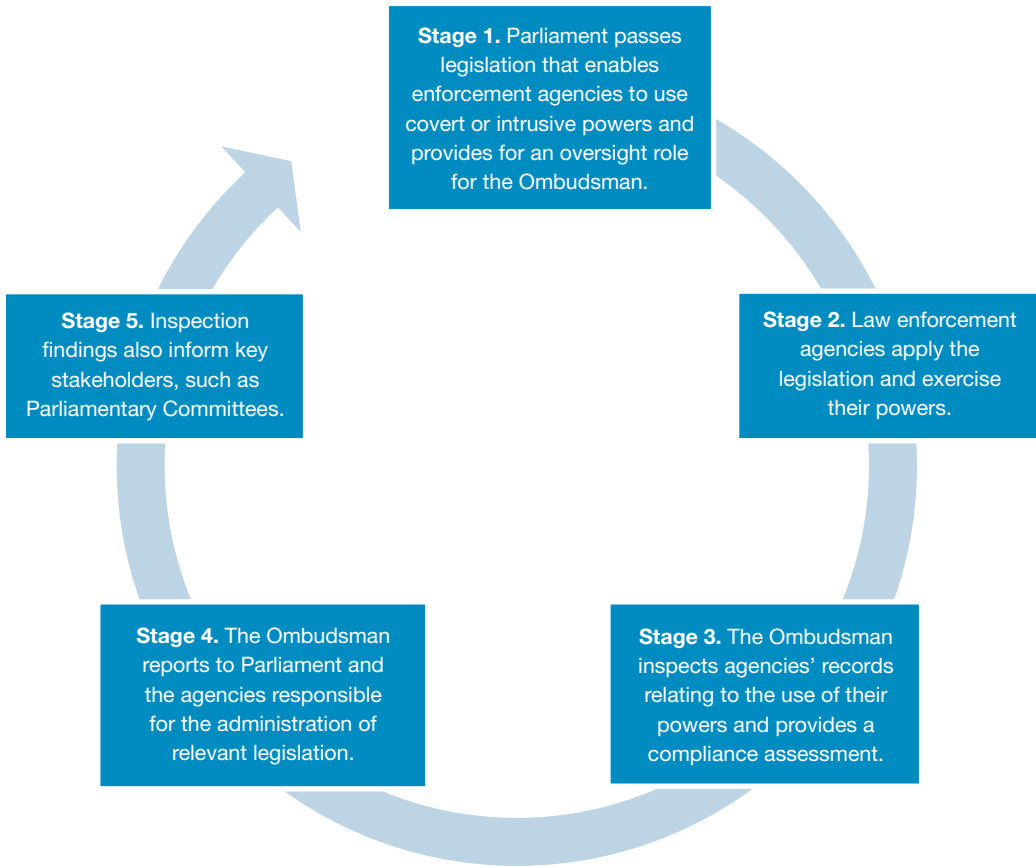
We also presented to new members of the AFP's complaint handling area the various ways in which we oversee the AFP, including our complaint, Part V review, and other inspection functions.

Inspections

Independent oversight process

Our law enforcement inspections role and follow-up agency engagement and feedback provide an integrated five-stage approach to independent oversight.

The independent oversight process



Stage 1

The purpose of an independent oversight mechanism is to increase accountability and transparency of enforcement agencies' use of covert and intrusive powers. As an oversight mechanism, the Ombudsman is required by law to inspect the records of certain agencies in relation to their use of covert and intrusive powers, which include:

- telecommunications interceptions by the Australian Federal Police (AFP), the Australian Crime Commission (ACC) and the Australian Commission for Law Enforcement Integrity (ACLEI)

- access to stored communications by Australian Government agencies, including the AFP, the ACC, the Australian Customs and Border Protection Service, and state and territory law enforcement agencies
- use of surveillance devices by the AFP, the ACC, the ACLEI, and state and territory law enforcement agencies under the Commonwealth legislation
- controlled operations conducted by the AFP, the ACC and the ACLEI.

During 2012–13 we also conducted a review of Fair Work Building and Construction's use of its coercive examination powers.

Stage 2

When law enforcement agencies exercise their powers, they are required to keep records of their related activities, including any use or communication of information obtained through such activities. We then inspect these records to determine agencies' compliance with their legislative obligations.

Stage 3

In 2012–13 we conducted 39 inspections, at both Commonwealth and state/territory levels. As well as inspecting agencies' records to make a compliance assessment, we aimed to help agencies improve their processes to comply with the various legislative provisions. This included liaising with agencies outside of inspections and communicating shared issues to relevant stakeholders, as well as providing advice on best practices.

Agencies also use our inspection findings to encourage review and positive change. For example, in 2012 the AFP undertook a review of its administration of controlled operations, examining existing processes and looking for ways to improve compliance with legislation. As a part of this review, the AFP advised that it took into account our inspection findings, suggestions and recommendations.

Stage 4

In addition to reporting to the agencies on our inspection findings, we are required to report regularly to the Attorney-General and the Minister for Home Affairs. These findings may also form the basis of our annual briefings to relevant parliamentary joint committees.

We also provide feedback to the Commonwealth Attorney-General's Department, the department responsible for administering the regimes we inspect, on how law enforcement agencies interpret and apply the provisions of different Acts, and any identified high-level systemic problems and issues.

For example, as a result of our inspections, we identified an ambiguity in the *Telecommunications (Interception and Access) Act 1979* that makes it difficult for us to determine whether or not stored communications warrants were validly executed. In our view, the legislation requires clarification. This issue was reported in the Attorney-General's *Telecommunications (Interception and Access) Act 1979 – annual report for the year ending 30 June 2012*.

Stage 5

As well as meeting our statutory reporting requirements, we also aim to provide useful information to key stakeholders resulting from our inspection functions. For example, during 2012–13, we made a submission to the Parliamentary Joint Committee on Intelligence and Security about its Inquiry into Potential Reforms to National Security Legislation. Our submission is available on the committee's website.

Improving our business practice

A key focus in 2012–13 for our inspection role was to improve the way in which we communicate compliance issues to agencies, to help them better comply with legislation and to improve our working relationships with agency stakeholders. We did this by ensuring consistency in how we

communicated inspection findings, providing comments on agencies' internal procedures and policies, and meeting with agencies outside of inspections.

This year we also enhanced our sampling methodology regarding how we choose which records to inspect. This, combined with an increase in agency use of certain legislative powers, resulted in us inspecting more records in 2012–13 compared to 2011–12.

Informing the public and decision makers

In addition to the submissions we made to parliamentary inquiries, during 2012–13 we published four reports and submitted 18 reports to the Attorney-General and the Minister for Home Affairs. Our published reports are a key element in enhancing accountability and transparency of enforcement agencies' use of covert, intrusive or coercive powers. These reports also provide transparency on how we conduct inspections.

Our published reports generally provide an outline of our inspection methodology and criteria, our findings against each criterion, and any agency responses to our findings. In 2012–13, the Ombudsman released the following reports:

- September 2012: *Biannual report to the Attorney-General on the results of inspections of records under section 55 of the Surveillance Devices Act 2004*
- September 2012: *Annual Report on the Commonwealth Ombudsman's activities in monitoring controlled operations conducted by the Australian Crime Commission and the Australian Federal Police in 2011–12*
- November 2012: *Annual Report by the Commonwealth Ombudsman under section 54A(6) of the Fair Work (Building Industry) Act 2012*
- March 2013: *Report to the Attorney-General on the results of inspections of records under section 55 of the Surveillance Devices Act 2004.*

The *Telecommunications (Interception and Access) Act 1979* does not permit the Ombudsman to publish reports on the results of telecommunications interceptions and stored communications access inspections. Instead, we provide information to the Attorney-General's Department for inclusion in their annual report to the Parliament under this Act.

Immigration Ombudsman

The Department of Immigration and Citizenship (DIAC) operates an extensive network of immigration detention facilities nationwide. This network accommodates a large number of people from a wide variety of cultures in disparate locations. Our office has an important role in relation to the oversight of immigration detention facilities.

We carry out this role through:

- our immigration detention inspection program
- detention reviews under section 468O of the *Migration Act 1958* (the Act)
- investigation of complaints about DIAC and its service providers by detainees or on behalf of detainees.

The number of people in immigration detention continues to be high by historical standards, as people continue to arrive in Australia as unauthorised maritime arrivals. We remain concerned about the disparity between the pre- and post-13 August 2012 unauthorised maritime arrival cohorts. Those who arrived before 13 August 2012 continue to be processed in accordance with the single statutory Protection Visa process while those who have arrived post-13 August 2012 are subject to the ‘no advantage principle’ and until recently had yet to have the processing of their claims for protection commence. (From 1 July 2013 DIAC has progressively referred post-13 August arrivals for application assistance to enable their claims for protection to be assessed.)

It is positive to note the decrease in the average duration of immigration detention. Both unauthorised maritime arrival cohorts have benefited from the use of Bridging Visas to move people out of immigration detention and into the community once they have been screened-in. The average time people are held in detention in 2012–13 was about 92 days compared with 205 days in 2011–12.

Immigration detention inspections program

The inspections visit program is a core part of our detention oversight function. We aim to visit each facility in the immigration detention network at least twice each year. These visits provide an opportunity to:

- engage with detainees through group and individual meetings
- record any complaints detainees may have
- provide information sessions about the role of our office to staff and detainees
- interview people detained for more than two years
- inspect the facilities and amenities
- assess the administrative functions undertaken within the facilities
- discuss operational issues with DIAC and its service providers.

Where the visits coincide with either a Client Consultative Committee or Community Consultative Group/Committee meetings, we may attend as observers. Attendance at these meetings provides insight into issues of relevance to the detainees and the local community.

During 2012–13 our teams visited the detention centres listed in Table 7.1.

Following each inspection visit, we provided DIAC with our key concerns, observations and suggestions arising from the visit. See Chapter 4 for a summary of these observations.

Table 7.1: Immigration detention facilities visited in 2012–13

IMMIGRATION DETENTION FACILITY	LOCATION	TIMING
Adelaide Immigration Transit Accommodation	Adelaide SA	June 13
Berrimah House Immigration Residential Housing	Darwin NT	July 12 March 13
Brisbane Immigration Transit Accommodation	Brisbane QLD	March 13
Construction Camp Alternative Place of Detention	Christmas Island	November 12 April 13
Curtin Immigration Detention Centre and Alternative Place of Detention	Derby WA	June 13
Darwin Airport Lodge Alternative Place of Detention	Darwin NT	July 12 March 13
Inverbrackie Alternative Place of Detention	Woodside SA	June 13
Leonora Alternative Place of Detention	Leonora WA	June 13
Maribyrnong Immigration Detention Centre	Melbourne VIC	November 12* April 13
Melbourne Immigration Transit Accommodation	Melbourne VIC	November 12* April 13
Northern Immigration Detention Centre	Darwin NT	July 12 March 13
North West Point Immigration Detention Centre	Christmas Island	November 12 April 13
Perth Immigration Detention Centre	Perth WA	April 13
Perth Immigration Residential Housing	Perth WA	April 13
Pontville Alternative Place of Detention	Pontville TAS	June 13
Port Augusta Immigration Residential Housing	Port Augusta SA	May 13
Regional Processing Reception Point	Cocos (Keeling) Island	November 12
Scherger Immigration Detention Centre	Weipa QLD	June 13
Sydney Immigration Residential Housing	Sydney NSW	August 13* December 13* May 13*
Villawood Immigration Detention Centre	Sydney NSW	August 13* December 13* May 13*
Yongah Hill Immigration Detention Centre	Northam WA	April 13

*Visit in relation to conducting interviews with long-term (two years or more) detainees only

Detention reviews

Statutory reporting

After a person has been in immigration detention for a period of two years, and every six months thereafter, the Secretary of DIAC must give the Ombudsman a report, under section 486N of the Migration Act, relating to the circumstances of the person's detention. Section 486O of the Migration Act then requires the Ombudsman to give the Minister an assessment of the appropriateness of the arrangements for that person's detention. The Minister tables the de-identified reports in Parliament together with their response. Post the ministerial response the de-identified reports are published on the Ombudsman's website.

Two-year review reports

In 2012–13 the number of two-year detention reports received from DIAC increased over the previous year: 1,118 reports in 2012–13 compared to 683 in 2011–12. Of the 1,118 reports, 417 were first reports of people who reached 24 months in immigration detention, and 701 were subsequent reports for people who had been in detention for 30 months or longer.

Many of the people subject to these reports were released on Bridging or Protection Visas, removed from Australia, detained in correctional centres or transferred to community detention. The Ombudsman is still required to report to the Minister even if the person has been released from detention since DIAC provided the section 486N report.

The Ombudsman provided 674 reports to the Minister in 2012–13 compared to 130 the previous year. The high number of cases the

Ombudsman is required to assess continues to place considerable strain on the ability of our office to report to the Minister in a timely manner.

A review was conducted in 2012 of the format of the reports sent to the Minister with a view to streamlining processes and introducing abridged reports where no recommendations or assessments were made. A revised triage approach was implemented to support this approach. All cases received thorough consideration and the format of the report to the Minister was informed by the issues raised by the cases and the recommendations made by the Ombudsman.

The people who may be the subject of an abridged report include those who:

- are in criminal custody
- have been removed from Australia
- have been released on Bridging or Protection Visas
- in some cases, are in community detention.

Reporting on such cases in an abridged format allows the Ombudsman to focus resources on individuals whose circumstances require a more comprehensive summary of their detention arrangements.

Trends and issues raised in the two-year reports include:

- the deterioration in mental health of a significant proportion of people in closed detention facilities, including diagnosed conditions of schizophrenia or psychosis
- the importance of DIAC and its service providers working together to ensure they meet their duty of care obligations in relation to detainees

- in most cases, the alleviation of mental health concerns once the person was transferred to a less restrictive environment, such as community detention or a Bridging Visa
- the continued long-term detention (in some cases over four years) of all but one of the group of people who have been found to be owed protection but who have received an adverse security clearance from the Australian Security Intelligence Organisation.

Reports

Suicide and self-harm in the immigration detention network

The Ombudsman released a report under section 15 of the Ombudsman Act in May 2013. This report is discussed in Chapter 4.

Taxation Ombudsman

The Taxation Ombudsman role was created at the suggestion of the Joint Committee of Public Accounts and Audit (JCPAA) with the Commissioner of Taxation in 1995, in recognition of the unequal position between the Australian Taxation Office (ATO) and taxpayers. The role helps to focus attention on complaints about the ATO. The Taxation Ombudsman appears at the annual hearings of the JCPAA and provides a review of the ATO's performance based on the complaints this office receives and our liaison activities with the ATO.

In 2012–13 we received 1,795 complaints about the ATO. These are discussed in detail in Chapter 4, Agencies Overview.

Postal Industry Ombudsman

Overview

One of the Commonwealth Ombudsman's roles is to act as the Postal Industry Ombudsman (PIO). The PIO was established in 2006 to offer an ombudsman service for the postal and courier industry. Australia Post is a mandatory member of the scheme, while private postal operators (PPOs) can register voluntarily. At 30 June 2013 there were six PPOs active on the register.

The PIO can investigate complaints about postal or similar services provided by Australia Post or PPOs. While the PIO cannot investigate non-postal services, the Commonwealth Ombudsman can investigate non-postal services by Australia Post. Non-postal services by all other operators are out-of-jurisdiction.

Fees

The PIO was established with the intent to recover its costs from the industry by charging investigation fees. As foreshadowed in last year's annual report, we conducted a review of how we charge for investigations conducted under the PIO scheme. We analysed investigations completed over a period of time to better ascertain the resources required to undertake investigations at different levels of complexity.

We determined that the fee levels were generally appropriate for the resources involved, with an adjustment to one fee level. There are four fee levels, which are based on the time and resources required to assess and investigate an approach.

As fees are calculated and applied retrospectively, the fees are determined after 30 June each year. The total fees invoiced in 2011–12 for the previous financial year were \$403,550 which consisted of \$399,732 for Australia Post, \$2,031 for Australian air Express, and \$1,787 for FedEx.

Restructure

As part of our office-wide restructure, we reorganised the PIO function to achieve a better balance between our operational and our strategic roles. We continued to assess and investigate individual approaches, but we were also able to focus more on issues of policy, process and systems that we identified through approaches, stakeholders, media and literature reviews.

‘Second chance’ transfer scheme

During the year we sought to improve our efficiency and effectiveness in resolving complaints. In conjunction with Australia Post, we developed a ‘second chance’ transfer scheme to operate between our two offices. Under the scheme, we transferred certain complaints directly to Australia Post to give it a second chance to resolve the complaint before we considered any further involvement.

These complaints were typically straightforward matters where we assessed whether a better outcome or explanation could have been provided by Australia Post. Complaints transferred under this scheme were not counted as investigations. In the event that the complainant returns to our office with the complaint unresolved, we would generally investigate. We have not extended the scheme to PPOs due to the relatively low number of approaches we receive about them.

Complaint trends

In 2012–13 we received 3,652 complaints about Australia Post, of which 353 (9.7%) were in the Commonwealth jurisdiction and 3,299 (90.3%) were in the PIO jurisdiction. Complaints about Australia Post represented 20% of the total approaches received by our office.

We received 15 complaints about other postal operators in the PIO jurisdiction, of which six were about Australian air Express and nine were about FedEx, making a total of 3,314 approaches in the PIO jurisdiction.

Of the approaches we received about Australia Post, we declined to investigate 3,277 (89.7%). Of those, we transferred 95 directly to Australia Post under the ‘second chance’ transfer scheme. Eleven of these returned to our office, and we investigated three of them.

The most common reasons for declining to investigate a complaint were that:

- the complainant had not yet made a reasonable attempt to resolve the issue with the agency, or had insufficient evidence of doing so
- we assessed that Australia Post should consider providing a better outcome and transferred the complaint to it under the ‘second chance’ scheme
- Australia Post or the PPO had provided a reasonable remedy or the remedy required under its terms and conditions of service
- a better practical outcome was unlikely.

We completed 440 investigations.

The investigations were about Australia Post (439) and FedEx (one). We did not investigate any approaches about Australian air Express.

The time taken to complete an investigation varied according to the nature and complexity of the complaint, and the resourcing available in our office and PPOs at the time. We finalised 13% of Australia Post investigations within one month, and 71% within three months.

The total number of postal complaints received was significantly lower than in the previous financial year, but higher than the financial year before (see Table 7.2). As external factors drive the number of complaints we receive, it can be difficult to accurately pinpoint the reasons for variations. Australia Post has advised that the satisfaction rating from surveyed customers for its customer contact centre improved in the same period, following significant investment in its

complaint management systems and staff training. The decrease in our complaints may reflect improvement in Australia Post's complaint management.

The number of complaints has increased each year since 2006–07, peaking in 2011–12 (see Table 7.2). The decrease in completed investigations is due, in part, to us setting a higher threshold for investigation, with a stricter interpretation of whether Australia Post has met its obligations and whether we are likely to achieve a better outcome for the complainant. We allocate our resources in this way in order to achieve a better balance between our operational and strategic roles, whereby we can focus more on systemic issues.

Table 7.2: Complaint trends 2006–07 to 2012–13

YEAR	AUSTRALIA POST APPROACHES RECEIVED	PRIVATE POSTAL OPERATORS APPROACHES RECEIVED	TOTAL APPROACHES RECEIVED	COMPLETED INVESTIGATIONS
2012–13	3,652	15	3,667	440
2011–12	4,137	36	4,173	486
2010–11	3,123	20	3,143	513
2009–10	2,626	11	2,637	557
2008–09	2,219	13	2,232	648
2007–08	2,083	4	2,087	745
2006–07	1,819	1	1,820	706

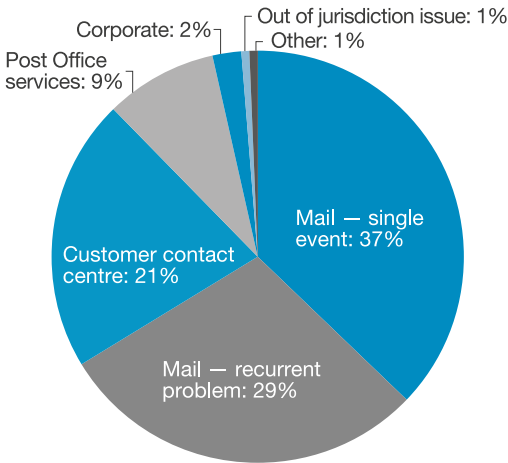
Complaint themes

The most common complaint themes were:

- single-event mail issues—including damage or loss of mail items, the failure of a mail hold or redirection, and problems with the method of delivery, where these issues were one off or occasional
- recurrent mail issues—where problems recurred despite repeated complaints to the postal operator
- customer contact centre-related—where Australia Post’s customer contact centre received, investigated and responded to complaints. Complaints were commonly about delays or a lack of response, the quality of information provided, and the remedy or compensation offered.

While the issues remained the same as these in recent years, their relative prevalence changed this year. In 2011–12 recurrent mail issues were the most prevalent, followed by customer contact centre issues. The lower prevalence of recurrent mail issues this year may reflect more effective action by Australia Post in resolving issues, while the lower prevalence of customer contact centre issues suggests improvement in Australia Post’s complaint management.

Figure 7.1: Australia Post complaint themes 2012–13



Australia Post

Most of the postal complaints we received were about Australia Post. Australia Post is a government business enterprise and operates under legislation (the *Australian Postal Corporation Act 1989*) that establishes three types of obligations: commercial, community, and general governmental. Some of its obligations are to:

- perform its functions in a manner consistent with sound commercial practice
- supply a reasonably accessible ordinary letters service at a single uniform rate
- ensure that the performance standards for the letter service reasonably meet the social, industrial and commercial needs of the community.

In setting financial targets, the Board of Australia Post must have regard to a range of matters, including the expectation that Australia Post will pay a reasonable dividend to the government.

Australia Post has the exclusive right to operate the letters service. Its other services, including parcels, operate in competition with other providers in the market.

We consider these factors when assessing and investigating approaches. We also try to help complainants better understand these obligations, as Australia Post's customers are often unaware of them or dispute their validity.

From complaints and investigations, we identified some issues with Australia Post's information, policies and procedures. We considered that addressing these might help Australia Post's customers better understand their rights and obligations, and might enable better outcomes for complainants.

Accessibility and quality of information

Information provided by Australia Post to its customers includes the terms and conditions for its services, post guides, web pages, and extracts of these on some postal products.

This information should help its customers choose the service best suited to them, particularly with regard to the delivery timeframe, the security of the item, the compensation payable, and the level of risk involved. When responding to complaints and determining compensation, Australia Post generally considers whether the customer and Australia Post have each met the conditions set out in this information. We consider it vital that Australia Post ensures the information is accessible, correct and clear.

We suggested to Australia Post that the following information could be improved:

- 'deliver as addressed policy' — there is a potential conflict with terms and conditions that enable mail to be returned to the sender if Australia Post knows the addressee is not receiving mail at the address
- website content indicating that Registered Post included tracking and, conversely, that tracking was not included
- the role of packaging in assessing a compensation claim for damage
- the International Post Guide — clarification and consistency on who has the right to claim compensation for damage and loss in the different postal services
- terms and conditions — potential conflict with the Parcel Post Guide regarding compensation payable for coins damaged or lost in the post.

Australia Post undertook to review this public information. Some changes were made during the year, while others are being considered as part of Australia Post's revision of its terms and conditions and post guides which is expected to be completed by October 2013.

In response to our investigations, Australia Post revised some of the internal information used by agents in its customer contact centre. This included information on managing complaints about disputed delivery signatures and about disputed mail redirections.

Policy and procedures

We identified a number of recurring issues that had the potential to create significant problems and result in an unreasonable outcome for the complainant. Following our investigations and feedback, Australia Post made a number of changes, two of which are described below.

Disputed delivery signatures

We received a number of complaints involving disputed delivery signatures.

We questioned whether the arrangements for investigating the issue were effective or reasonable. At the time, if an addressee made a complaint to Australia Post about non-delivery of an item requiring a delivery signature, Australia Post would generally direct the addressee to the sender. If the sender then made a complaint and Australia Post found a signature on record, the sender or Australia Post might decline to take further action. Alternatively, Australia Post might investigate, but with little effect given the lapse of time.

As a result of our involvement, Australia Post changed their complaint-handling arrangements. Agents in its customer contact centre should now immediately log a complaint, investigate with the relevant delivery facility, and compare the addressee's signature with the one on record. If the signatures do not match, Australia Post should consider the item as undelivered, show this in the record, and determine any compensation claim accordingly.

Unauthorised mail redirections

We received complaints about unauthorised mail redirections whereby the complainant had found that somebody else had arranged for Australia Post to redirect the complainant's mail to another address without consent. At the time, Australia Post would generally contact the applicant to confirm their authority. If the applicant confirmed it, Australia Post would refer the complainant back to the redirection applicant to resolve the matter.

We questioned whether relying on the applicant was effective or reasonable, and whether Australia Post should consider alternative action, given the application form's warning that redirecting mail without authorisation is a criminal offence.

As a result of our involvement, Australia Post undertook to revise the complaint-handling advice to agents in its customer contact centre, so that it is clear about escalating complaints to its Security Investigation Group which, in turn, may involve the police.

Forecast

We expect broad complaint themes to remain largely the same, although we expect a greater number of complaints about the tracking service for all domestic parcels, compensation for lost ordinary parcels, and possibly parcel delivery (attempted delivery versus automatic carding).

We will continue to monitor complaint themes to identify potential issues in Australia Post's policies, processes and systems, and to pursue these with Australia Post through meetings, correspondence, issues papers or formal reports.

We will review the complaint outcomes of the direct transfer 'second chance' scheme. We want to identify how many complainants return to us, on which issues, and why, with a view to informing Australia Post so that it can consider how to better address the issues.

We expect that changes in Australia Post's performance and complaint management will help improve its complaint handling, and reduce the number of complainants contacting our office. Australia Post advised us that its initiatives include:

- new and expanded systems to monitor and record deliveries
- new and ongoing programs to train its customer contact centre agents, and new technology to enable supervisors and managers to identify shortfalls in performance
- improved technology systems to better integrate information about complainants and their current and past complaints, and between different business lines within Australia Post.

We will continue to provide feedback to Australia Post at the operational and corporate levels, with a view to helping it improve its systems and resolve some of the underlying causes of complaints. We will also continue to seek better outcomes for complainants, where warranted.

Overseas Students Ombudsman

The Overseas Students Ombudsman operates within the Office of the Commonwealth Ombudsman as a statutorily independent external complaints body for overseas students complaining about the actions or decisions of a private registered education provider.

The Overseas Students Ombudsman has three clear roles under section 19ZJ of the *Ombudsman Act 1976* legislation:

- investigate individual complaints
- report on trends and systemic issues in the sector
- work with providers to promote best practice complaint handling.

Since commencing in April 2011, the Overseas Students Ombudsman has received more than 1,000 complaints from overseas students relating to about one quarter of the more than 900 private registered providers in our jurisdiction. This includes every state and territory (except South Australia, where the Training Advocate has jurisdiction).

In investigating individual complaints, the Overseas Students Ombudsman focuses on achieving practical remedies where a student has been adversely affected by a provider's incorrect actions. We also uphold complaints in support of the provider where the provider has followed the *Education Services for Overseas Students Act 2000*, the National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students

2007 (National Code) and its own policies and procedures. In other cases, we help both parties come to a resolution where there are problems on both sides.

Complaint themes

In 2012–13 we received a total of 442 complaints about private registered education providers in connection with overseas students. We started 189 complaint investigations and closed 447 complaints (including some complaints received in the previous financial year). Of the complaints received during the year, 258 were not investigated because:

- the student had not yet exhausted their provider's internal complaints and appeals process
- we transferred the complaint to another complaint-handling body better placed to deal with the issue
- an investigation was not warranted in all the circumstances, for example, we were able to form a view on the basis of the documents provided by the student without the need to contact the provider.

The top three types of complaints the Overseas Students Ombudsman received about private registered providers concerned:

- providers' decisions to report students to the Department of Immigration and Citizenship (DIAC) for failing to meet attendance requirements under Standard 11 of the National Code (112 students)

- providers' decisions to refuse a student transfer to another provider under Standard 7 (92 students), and
- disputes about a student's entitlement to a refund of pre-paid tuition fees (90 students).

Other complaints of significant proportion were fee disputes (32 students); decisions of providers to report students to DIAC for failing to meet course progress requirements under Standard 10 of the National Code (25 students); disciplinary reasons or non-payment of fees (12 students); and provider decisions to refuse deferral requests (11 students).

Most providers have willingly assisted our investigations by providing the information requested in a timely manner. We did not need to use our formal powers under section 9 of the *Ombudsman Act 1976* to compel a provider to produce documents or answer questions in 2012–13.

Under section 19ZK, the Overseas Students Ombudsman must transfer a complaint to another statutory office holder if the complaint can be more effectively dealt with by that alternative complaint handling body. In 2012–13 we transferred 22 complaints to the Australian Skills Quality Authority relating to the quality or registration of a course, and one complaint about discrimination to the Australian Human Rights Commission. We transferred 14 complaints to the Tuition Protection Service, including four complaints about provider closures and eight complaints about providers not paying refunds on time, after a student withdrew or had their Student Visa application refused.

We transfer refund complaints to the Tuition Protection Service where the student is clearly eligible for a refund. However, the Overseas Students Ombudsman investigates more complex refund complaints, where it is not clear whether the student is owed a refund or how much should be refunded. We also consider complaints that fall outside the jurisdiction of the Tuition Protection Service, for example, where it has been more than 12 months since the default date, in which case the Tuition Protection Service is precluded from considering the matter, but the Overseas Students Ombudsman has power to investigate.

Trends and systemic issues

Overseas student complaint statistics

In 2012–13 the Overseas Students Ombudsman published quarterly statistics on our website at www.oso.gov.au showing the number of complaints received about a range of issues. This information will allow the identification of trends in complaint issues over time.

The Overseas Students Ombudsman is also working with the state and territory Ombudsman offices and the South Australian Training Advocate to explore ways to generate overseas student complaint statistics which can be compared across jurisdictions. The Overseas Student Ombudsman is taking the lead on this ongoing project.

Systemic issues

The Overseas Students Ombudsman did not undertake any ‘own motion’ investigations during 2012–13. We have, however, prepared

an issues paper highlighting problems we have noted with a small number of private providers receiving Overseas Students Health Cover payments from overseas students but then failing to pass this money on to the health insurance company. This action leaves students without health insurance and, consequently, places those students in breach of their visa conditions. The issues paper includes de-identified case studies and will be sent to a range of government agencies to generate discussion during the first quarter of 2013–14.

Other common problems noted during 2012–13 through our complaint investigations were highlighted in our first provider e-newsletter, in the article ‘Are you making any of these mistakes?’. This is available on the Overseas Student Ombudsman’s website at www.oso.gov.au/publications-and-media/.

Cross-agency issues

The Overseas Students Ombudsman liaises with a number of Australian Government agencies involved in international education policy and programs. We met with the Australian Skills Quality Authority (ASQA), the Tertiary Education Quality Standards Agency, DIAC and the Department of Innovation, Industry, Climate Change, Science, Research and Tertiary Education throughout 2012–13 to discuss issues related to overseas students and registered providers.

The Overseas Students Ombudsman has the power to report providers of concern to the national regulators, ASQA or the Tertiary Education Quality Standards Agency.

In 2012–13 we used our power under section 35A of the *Ombudsman Act 1976*, to disclose information in the public interest, on eight occasions to disclose to ASQA details of complaints where it appeared to us that a private provider may have breached the Education Services for Overseas Students Act or the National Code, and we considered that it was in the public interest to advise the national regulator of the details. Once we provide this information to ASQA, it is up to ASQA to decide what regulatory action, if any, it should take.

We did not make any disclosures to the Tertiary Education Quality Standards Agency in 2012–13. We did meet with them in 2012–13 to discuss information sharing arrangements, which will be confirmed in a memorandum of understanding, which they are currently developing.

In March 2013 we met with DIAC to discuss the abolition of automatic and mandatory cancellation of Student Visas, which came into effect on 13 April 2013. Previously, once a provider reported an overseas student to DIAC for poor attendance or course progress, their visa could be automatically cancelled without review by the Migration Review Tribunal.

It was also mandatory for DIAC to cancel the student's visa if they had failed too many subjects or missed too many classes. DIAC also now has more discretion not to cancel the student's visa if compelling and compassionate circumstances apply. We met with DIAC and clarified that the student's right to lodge an external appeal with the Overseas Students Ombudsman, objecting to their provider's intention to report them to DIAC, remains unchanged.

The Overseas Students Ombudsman will continue to investigate to ensure that providers have followed the required processes before any reporting to DIAC.

Submissions

On 14 February 2013 we appeared before the House of Representatives Standing Committee on Education and Employment. We made a verbal submission and participated in discussions relating to international education. We also provided further information that was supplementary to what we had previously supplied at the international education roundtable held on 3 April 2012. The committee tabled its report, *International education support and collaboration*, on 27 May 2013.

Stakeholder engagement and outreach

Promoting best practice complaint handling

The Overseas Students Ombudsman promotes best practice complaint handling, including through our *Best practice complaints handling guide for education providers*, to help private registered providers resolve complaints internally. This ensures problems can be dealt with directly by providers in a timely and effective manner, giving students a satisfactory resolution and contributing to a positive study experience in Australia. If complaints are mishandled, it can damage not only the reputation of the individual provider but the reputation of the Australian international education sector as a whole. To avoid these negative impacts, the Overseas Students Ombudsman works with providers to help them improve their internal complaints and appeals processes.

Provider newsletter

On 2 May 2013, we sent out the first Overseas Students Ombudsman provider e-newsletter directly to the Principal Executive Officers of more than 900 private registered education providers across Australia. The newsletter provides information on the Overseas Students Ombudsman's role, promotes best practice complaint handling, and provides information to the sector on complaint issues and trends.

Student newsletter

A quarterly newsletter for overseas students is due to be sent out in the first quarter of 2013–14. It will include information, advice and tips for overseas students on their rights and obligations and how to deal with problems that may arise with their private registered education provider.

International education conferences

During the year staff from the Overseas Students Ombudsman attended a range of relevant international education conferences and policy briefings. They spoke to education providers, international students, government stakeholders and peak body representatives to promote the role of the Overseas Students Ombudsman and discuss particular issues and challenges faced by international students and education providers.

In 2012–13 we attended the:

- Council of International Students Australia Conference on 10 July 2012
- Australian Council for Private Education and Training Conference on 30–31 August 2012
- English Australia Conference on 20 September 2012
- NSW Ombudsman University Complaint Handling forum in Sydney on 17 February 2013
- Australian Education International's International Education Policy Briefing on 1 March 2013.

Government stakeholder liaison

In May 2013 the Overseas Students Ombudsman attended the Joint Committee on International Education, which is the primary forum for Commonwealth, state and territory government officials to collaborate on public policy and pursue common strategic directions in supporting the sustainability of international education in Australia.

In April and June 2013, the Overseas Students Ombudsman also attended the Inter-Departmental Forum, which brings together Australian Government officials from relevant departments to discuss international education matters.

Other complaint handling bodies

The Overseas Students Ombudsman also engaged with other complaint handling bodies to share information and expertise on handling overseas student complaints. This included meetings with the Western Australian International Education Conciliator on 22 March 2013 and the state and territory Ombudsman offices—together with the South Australian Training Advocate—on 23 May 2013.

Looking ahead

We will continue to engage with private providers, overseas students, peak bodies, relevant government departments and other complaint handling bodies. Key deliverables for the next year include developing an online best practice complaint handling training package for private providers and producing the first e-newsletter for overseas students.

International

Our office has been actively supporting Ombudsman organisations and allied integrity institutions in the Asia Pacific region over a number of years and, most recently, in Latin America. We do this through institutional partnerships and peer networks, and also by directly helping individual offices build their organisational capacity.

The aim of the Commonwealth Ombudsman's international program is to foster more effective Ombudsman organisations. An effective ombudsman contributes to better public governance which in turn contributes to improving the lives of some of the world's least advantaged communities.

Our programs are mostly funded by AusAID and we contribute senior staff time and expertise. Individual staff members are involved in the program through learning exchange placements, seminars and ongoing dialogue with our international colleagues. We benefit greatly from engaging with other Ombudsmen offices by sharing and sharpening our skills and ideas.

Pacific Ombudsman Alliance

Over the past four years our office has received funding from AusAID for the Pacific Ombudsman Alliance (POA), a strong regional network of Ombudsmen and allied institutions. This funding allows the POA to provide a broad range of support to its members.

Our four-year program was designed as a consolidation phase of the POA. Our aim was to build the existing association into a strong, mutually supportive network that helps POA members make real improvements to their effectiveness, resulting in better public administration in each country.

At the end of this phase, the POA has been able to reflect on significant successes in individual countries, and across the organisation as a whole. It has developed into a flexible, responsive and practical organisation able to use Australian aid money sensibly to address immediate identified need.

As well as providing technical support, the combined expertise of the POA membership has been a tremendous asset, as members have many decades of experience as Ombudsmen and senior public officials. Sharing common problems and solutions with peers has been a significant part of the POA's success.

This success was confirmed by an independent report, commissioned by AusAID, to evaluate the POA's efficiency and effectiveness. The report is due to be finalised in July 2013, but the draft findings are that the POA is providing a valuable function for strengthening Ombudsman offices and for improving governance in the Pacific. The Review Team recommended that AusAID and the New Zealand Government continue to provide support to the POA.

A significant challenge for many POA members this year has been vacancies or delays in substantive appointments of an Ombudsman. This hole in leadership creates practical difficulties for the effective functioning of member offices, and weakens the integrity framework in that country. The POA has been able to provide advice for Ombudsman staff during this time, and encouraged governments to appoint new Ombudsmen efficiently and be proactive in planning for succession.

A highlight of 2012–13 was our members' meeting, held in conjunction with the International Ombudsman Institute general conference, in Wellington, New Zealand, in November 2012. There is more information about this later in this section.

Following are some highlights of the activities the POA has funded and organised in the past 12 months:

- The **Solomon Islands** Leadership Code Commission hosted a legal officer from the Commonwealth Ombudsman's Office on a four-week placement in September – October 2012. The placement supported the office with key legislative reforms, general legal advice and improving internal case management procedures. This support has helped the office to progress a number of high-profile misconduct charges in 2013.
- The Office of the Ombudsman of **Samoa** hosted a delegation from the Commonwealth Ombudsman's Office in December 2012 to deliver corporate training and review the outcomes of the long-term support provided by the POA. The delegation found that long-term support by the POA has created sustainable change and contributed to a revitalisation of the office. The office has released a number of important high-profile reports and is experiencing a significant increase in public contact, largely as a result of a successful public outreach program. The office will also take on the function of National Human Rights Institute from July 2013.
- The POA facilitated a Leadership Workshop in **Niue** in November 2012, together with the Commonwealth Pacific Governance Facility of the Commonwealth Secretariat. The workshop was held over several days and brought together members of the Niue Legislative Assembly, senior officials and key members of the Niue community. The workshop produced a set of good leadership values and ethical standards for Niue leaders, and options for their adoption and enforcement.
- The Auditor-General of the Republic of the **Marshall Islands** hosted a senior investigator from the Commonwealth Ombudsman's Office on two long-term placements aimed at improving the efficiency of investigations, asset recovery and prosecutions. The placement has led to the development of a sophisticated investigations manual and a review of the office's internal processes and legislative mandate.

- The newly appointed **Vanuatu** Ombudsman and **Cook Islands** Ombudsman visited Sydney and Canberra on a one-week induction visit hosted by the Commonwealth and New South Wales Ombudsmen. This visit covered a broad range of Ombudsman functions and introduced the two new Ombudsmen to both offices.
- The New South Wales Ombudsman has sent one of its senior investigators on a POA placement to the **Vanuatu** Ombudsman's Office, providing support for legislative reform, assessing options for a case tracking system, and identifying ways to improve the corporate support functioning of the office.
- The Acting Commissioner for Public Relations in **Tonga** spent three weeks with the New Zealand Ombudsman's Office to learn about his new role (a complaint-handling body with a role similar to that of an Ombudsman).
- The Public Service Office in **Kiribati** is a POA member, with a non-legislative responsibility for accepting and resolving complaints from members of the public. The New South Wales Ombudsman's Office sent a senior investigator to the Public Service Office to help them identify how the roles and functions of an Ombudsman could be performed within the existing structures in Kiribati.

Dialogue between Pacific Ombudsmen

The POA held its fourth annual members meeting in Wellington, New Zealand, on 10 November 2012. The meeting brought together member organisations from 14 Ombudsman offices and allied Institutions to strengthen regional cooperation and share strategies for promoting good governance in the Pacific. The meeting was held in the spirit of warm professional collegiality and the discussions highlighted a great number of achievements and positive work being done in member organisations—in many cases with the support of the POA.

During the meeting the members elected a new Board, with the Australian Commonwealth Ombudsman, Colin Neave, nominated as the Chair. Members also took the opportunity to discuss and agree on the strategic direction of the POA, and participate in a review of donor funding coordinated by AusAID. The feedback from the members supported the review's finding that the POA is providing a valuable function for strengthening Ombudsman offices and for improving governance in the Pacific.

The International Ombudsman Institute's World Conference was also held in Wellington in the week following the POA meeting, and a number of POA members stayed on to attend. The theme of the conference was 'Speaking truth to power', drawing together some of the world's most prominent and highly regarded Ombudsmen and integrity professionals. The conference sessions focused on key issues for accountability agencies in the 21st century, including delivering more with less, serving vulnerable populations effectively, securing resources, and developing innovative practices.

The conference was notable for passing a change in the International Ombudsman Institute's by-laws that should ensure that the institute retains its relevance as Ombudsman offices around the world gain additional functions and responsibilities. One of the highlights of the conference was developing linkages with the dynamic and engaging Ombudsman of the Caribbean. In a meeting of the Pacific and Caribbean Ombudsmen, they discussed shared experiences in serving similarly small and poorly resourced nations and innovations for improving the effectiveness of their respective offices.

The conference proved an ideal opportunity for the host office, the New Zealand Office of the Ombudsman, to highlight the magnificent environment and culture of New Zealand. Highlights included the Powhiri, the Maori ceremonial welcome, and the Poroporaki, the conference closing.

Twinning program with Papua New Guinea

Our office has had a twinning program, supported by AusAID, with the Ombudsman Commission of Papua New Guinea (PNG) since 2006. Twinning is a method of aid delivery that uses a long-term equal partnership to create strong links between individuals, teams and organisations. The program benefits participating individual employees, but it also supports organisational reform.

Activities for each year's program are decided at the end of the previous year as part of both organisations' strategic planning. This year, our program expanded to include the Leadership Division of the Ombudsman Commission of PNG. This division has responsibility for investigating breaches of PNG's Leadership Code, and referring suspected breaches to the Public Prosecutor for prosecution.



L–R Phoebe Sangetari, Ombudsman from the Ombudsman Commission of PNG, and Beverley Wakem, Chief Ombudsman of New Zealand, at the Pacific Ombudsman Alliance Annual Conference in Wellington New Zealand, November 2012.

The cornerstone of the program is reciprocal placements of individual officers. In the past 12 months, the Commonwealth Ombudsman's Office has hosted three Ombudsman Commission of PNG investigators on placement in the Canberra and Adelaide offices. During their placement, the officers also visited other Commonwealth and state agencies, including the Victorian Ombudsman's Office, the Commonwealth Attorney-General's Department, and the Australian Transaction Reports and Analysis Centre (AUSTRAC).

A fourth Ombudsman Commission of PNG investigator, from the office's Leadership Division, was placed with the Queensland Crime and Misconduct Commission to focus on misconduct investigations. The Commonwealth Ombudsman has sent two placement officers to the Ombudsman Commission of PNG: the first to help with setting up a toll-free complaint number, and the second to assist with policy development and legislative reform.

Providing support in Indonesia

The nine Ombudsmen of the Republic of Indonesia (ORI) are managing a rapidly growing organisation with a very broad responsibility for overseeing government in Indonesia.

As ORI nears its goal of opening 33 regional offices—one in each province—our office is providing assistance in training the new officers and supporting the Chief Ombudsman in his goal to place ORI at the forefront of improving government administration in Indonesia.

In January 2013 staff from the Commonwealth Ombudsman Office

and the West Australian Ombudsman's Office delivered a training program for new investigators in ORI's regional offices. ORI has a legislative responsibility for supporting public sector complaint handling across all levels of Indonesian public service delivery. As part of this role, they have introduced unannounced inspection visits of government agencies that provide services to the public.

During a planning visit in Jakarta in April, our staff were able to accompany ORI staff on unannounced inspection visits to three government departments, and see first-hand the thorough and professional inspection process that ORI has introduced.

Our program in Indonesia is funded by AusAID, and is in partnership with the West Australian and New South Wales Ombudsmen. This partnership gives the program access to many skilled and expert staff.

Partnering with the Solomon Islands

In 2012 our office signed a memorandum of understanding with the Solomon Islands Ombudsman's Office to formally mark our joint commitment to an institutional partnership. Funded by the Regional Assistance Mission to the Solomon Islands, the institutional partnership has facilitated flexible, timely and collegiate assistance to the Solomon Islands Ombudsman.

Through this partnership, our office is supporting the Solomon Islands Ombudsman Office in developing its Case Management System. This system is now fully operational, capturing data not previously recorded by the office. This data will greatly assist the office in monitoring its case load and producing accurate reports.

The Solomon Islands Ombudsman's Office hosted one of the Commonwealth Ombudsman's senior investigations officers on a short-term placement in June – July 2013. During this placement the officer worked closely with the staff to develop the office's case management capability and align the Case Management System with standard operating procedures and processes.

We are also helping the Solomon Islands Ombudsman's Office to update its information and communications technology infrastructure. Since May 2012, five support visits have been carried out by Commonwealth Ombudsman IT staff. The upgrade project included support to the Solomon Islands Leadership Code Commission, as they share the same building and information and communications technology infrastructure with the Ombudsman's Office.

All technical work has now been completed by Commonwealth and Solomon Islands staff. Both the Leadership Code Commission and the Ombudsman's Office are connected to the central government server and are operating on new SharePoint sites. The connection will ensure the two offices benefit from whole-of-government information and communications technology developments.

Institutional links with Peru

In 2011 we received funding from AusAID for a program to develop links with the Defensoria del Pueblo in Peru. The Defensoria has been established for 20 years and is highly regarded both in Peru and in the international Ombudsman community.

Following a two-week research project, a scoping team of three people visited the Defensoria in February 2012. The trip was very successful and a number of important personal and professional links were made between the offices.

In August 2012 a delegation of two officers from the Defensoria travelled to Australia for a week, visiting Canberra, Sydney, Parkes and Stockton Beach. The objective of the visit was to explore issues including native title, Indigenous land ownership, economic development by Indigenous communities, and building strong local relationships with the mining industry.

The delegation met with a number of organisations, including the NSW Aboriginal Land Council, the NSW Minerals Council, Reconciliation Australia, Rio Tinto staff at Northparkes, the Commonwealth Attorney-General's Department, and the Office of the Coordinator-General of Remote Indigenous Services.

In April and May 2013, the Commonwealth Ombudsman participated in a meeting of the Federation of Ibero-American Ombudsmen in Lima, Peru, on the role of the Ombudsman in the Law of Prior Consultation. This law is a response to the International Labour Organization Convention 169 – Indigenous and Tribal Peoples, ratified by Peru on 2 February 1994.



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

This provided a wonderful opportunity to meet many of the Ombudsmen from Latin America. The Commonwealth Ombudsman took the chance to forge ties with the Ombudsman of Bolivia, currently the head of the Andean Ombudsman Association. The delegation also travelled to Pucallpa in the Ucayali region, and Cusco in the Cusco region, and met with representatives from both Amazonian and Andean communities.

The program was completed in May 2013.

Norfolk Island Ombudsman

The *Ombudsman Act 2012* (Norfolk Island) was passed by the Norfolk Island Legislative Assembly in July 2012. Section 29A of

the Act, which came into operation on 24 August 2012, allows for the appointment of the Commonwealth Ombudsman as the Norfolk Island Ombudsman.

While we undertook preparatory work for the appointment in 2012, formalisation of the appointment as required under s 29A—and future funding arrangements for the Norfolk Island Ombudsman function—were not finalised by 30 June 2013.

On the understanding that the Ombudsman would be formally appointed, our office received four complaints in 2012–13.

These complaints will be assessed when the appointment of the Ombudsman is finalised.

Public Interest Disclosure

On 26 June 2013 the Australian Parliament passed the Public Interest Disclosure Bill, legislation which establishes the first stand-alone whistleblower protection scheme for federal public servants, contractors and employees of contractors who report wrongdoing within the Australian Public Service. The Public Interest Disclosure Bill received Royal Assent from the Governor-General on 15 July 2013 and became law. The Public Interest Disclosure Scheme will come into operation no later than 16 January 2014, six months after Royal Assent. The Public Interest Disclosure Act (the PID Act) also includes a statutory review of its operations two years after commencement.

The roles envisaged for the Commonwealth Ombudsman under the PID Act will be key enablers in ensuring the legislation meets its objectives by:

- assisting agencies and disclosers
- raising awareness of the scheme
- providing oversight of agency decisions
- providing disclosers with greater certainty when making an external public interest disclosure
- enabling greater transparency and accountability by reporting to the Parliament on the operation of the scheme.

In particular, under the legislation the Ombudsman may set standards relating to:

- procedures, to be complied with by the principal officers of agencies, for dealing with internal disclosures
- the conduct of investigations under the PID Act

- the preparation of reports of investigations under the PID Act
- the provision of information and assistance and record keeping for the purposes of the Ombudsman's annual reporting.

These standards establish obligations against which the Ombudsman can test the compliance of agencies. The standards will need to anticipate the wide cross-section of agencies that will be required to administer the PID Act and will be designed to avoid conflict with existing legislative and other established requirements.

The Ombudsman:

- is required to assist principal officers, authorised officers, public officials, former public officials and the Inspector-General Intelligence and Security in relation to the operation of the Act. The Ombudsman will perform this function by providing guidelines and fact sheets tailored to meet the needs of the different stakeholders. The Ombudsman will also provide a point of contact for the provision of more specific advice to agencies in the management of their obligations and those people who are thinking about making—or who have already made—a disclosure under the scheme
- is required to conduct education and awareness programs for agencies, public officials and former public officials in relation to the operation of the Act. The Ombudsman will perform this function through a range of initiatives, including fact sheets, guidelines and other promotional material, and providing face-to-face educational and promotion sessions where appropriate

- will be authorised to receive and investigate disclosures. While the intention is for the majority of investigations to be conducted by the agencies themselves into matters that arise within their organisation, if the matters are particularly complex or involve multiple agencies the Ombudsman (or another investigative agency) may become involved. When the Ombudsman does investigate, our office will bring to the task considerable expertise and all the powers under the *Ombudsman Act 1976*
- will take reports from agencies whenever a disclosure is allocated to an agency and whenever a decision is taken not to investigate a disclosure or to discontinue such an investigation. In addition to this, the Ombudsman will be required to determine extensions of time for the investigation of disclosures, providing a further safeguard against inaction and delay
- must provide to the Minister for tabling in the Parliament an annual report on the operation of the scheme. In order to give effect to this requirement, the Ombudsman will issue standards on the provision of information and assistance and record keeping by agencies.

During the year the Ombudsman's Office was closely consulted by the Department of the Prime Minister and Cabinet as

the key stakeholder in the development of legislation. The focus of these efforts was directed at achieving a scheme that ensured strong protections for whistleblowers and agency accountability, yet was overarching in concept, allowing existing processes and integrity arrangements to operate.

Our office also made significant headway in the development of standards, guidelines and other material in preparation for the commencement of the scheme. The PID scheme applies to the entire public sector (not just APS employees), including contractors, consultants, Defence, AFP and Parliamentary Service employees as well as former public officials. No definitive information is currently collected on the number of public interest disclosures that are currently raised within the Australian Government. This creates a high level of uncertainty in terms of the workload and effort that will be required to implement and oversee the scheme and generates considerable resourcing risk for the Ombudsman.

An effective public interest disclosure scheme provides indirect benefits to all Australians. It helps ensure the efficient, effective and ethical delivery of government services and, ultimately, helps reduce risks to the environment and health and safety of the community. It will instil citizen confidence in the Australian public sector.



A delegation from Peru's Defensoria del Pueblo visiting the Northparkes mine site with officers from the Commonwealth Ombudsman's office, August 2012.





APPENDIXES

Appendixes

Appendix 1: Information Publication Scheme

The Information Publication Scheme (IPS) applies to Australian Government agencies that are subject to the *Freedom of Information Act 1982*. This scheme requires an agency to publish a broad range of information on their website.

The Commonwealth Ombudsman's Office website makes available the Ombudsman's Information Publication Scheme plan, describing how the office complies with these requirements and giving access to information published under the scheme.

Appendix 2: Presentations by Staff

PRESENTER	TITLE/CONTENT OF PRESENTATION	RECIPIENTS
AIRO-FARULLA, G		
August 2012	'The Commonwealth Ombudsman and Australian Administrative Law'	Office of the Ombudsman of the Republic of Indonesia – Ombudsmen, Assistant Ombudsmen and Investigation Officers
September 2012	'The Commonwealth Ombudsman and Access to Information'	Guest lecture to Graduate Certificate in Migration Law students at Griffith University
October 2012	'The Commonwealth Ombudsman's Role and Practice'	Guest lecture to Administrative Law students at University of Queensland Faculty of Law
October 2012	'The Commonwealth Ombudsman's Role and Practice'	Guest lecture to Administrative Law students at University of Canberra Faculty of Law
February 2013	'Overseas Students Ombudsman Update'	House of Representatives Education Committee
February 2013	'Revising the Complaint Handling in Universities Best Practice Guide'	NSW Ombudsman University Complaint Handlers Forum
March 2013	'The role of the Commonwealth Ombudsman and Making Good Complaints'	Homeless Persons' Legal Clinic caseworker training seminar
April 2013	'The Commonwealth Ombudsman's Role and Practice'	Guest lecture to Administrative Law students at University of Canberra Faculty of Law
April 2013	'The Role of the Overseas Students Ombudsman'	International education agents, ICEF Australia and New Zealand Agents Australasia conference
CHINNERY, M		
December 2012	'The role of the Ombudsman and how it is connected to Australian Federal Police professional standards'	Australian Federal Police Professional Standards internal induction
FLEMING, H		
November 2012	'The role of the Ombudsman's office'	Student Financial Advisers conference
May 2013 & June 2013	'The role of the Ombudsman's office and complaint handling'	Department of Families, Housing, Community Services and Indigenous Affairs
JONES, J		
November 2012	'The Commonwealth Ombudsman's perspective on the immigration detention network'	Asia Pacific Coroners' Society conference
May 2013	'The role of the Immigration Ombudsman'	Department of Immigration and Citizenship 2013 Graduate Development Program

continued

PRESENTER	TITLE/CONTENT OF PRESENTATION	RECIPIENTS
MASRI, G		
July 2013	'Overseas Students Ombudsman'	Council of International Students Australia Conference, Brisbane – Queensland University of Technology
February 2013	'Practical Legal Ethics: Good and Ethical Decision Making'	Continuing Professional Development for Government Lawyers seminar, Canberra
February 2013	'Building and maintaining a complaint handling system to reflect ethical values'	2nd Ethical Leadership and Governance Congress, Sydney
NEAVE, C		
November 2012	'Former and current Ombudsman roles'	Certified Practising Accountants
February 2013	'Expanding the Administrative Decisions Judicial Review Act : The future of Judicial Review in Australia'	Australian Institute of Administrative Law seminar
March 2013	'Insider Knowledge: Managing Relationships with the Bureaucracy'	Australia and New Zealand School of Government
March 2013	'The role of the Ombudsman'	Justice and Pro Bono Conference 2013
March 2013	'The role of the Ombudsman'	Independent Competition & Regulatory Commission
May 2013	'The role of the Ombudsman'	Department of Immigration and Citizenship 2013 Graduate Development Program
REEVES, S		
June 2013	'Presentation on the Ombudsman's role'	Scherger Immigration Detention Centre
WALSH, R		
August 2012	'The role of the Commonwealth Ombudsman'	Lecture presented at the University of Wollongong's Ethics and Integrity seminar
November 2012	'The role of the Commonwealth Ombudsman and the Compensation for Detriment caused by Defective Administration scheme'	Department of Finance and Deregulation's inter-agency forum on Discretionary Compensation Mechanisms
WELTON, E & DODD, K		
April 2013	'The role of the Ombudsman and how it is connected to Australian Federal Police professional standards'	Australian Federal Police professional standards internal induction

Appendix 3: Statistics

Approaches and complaints received and finalised about Commonwealth Government agencies 2012–13

PORTFOLIO/AGENCY	NOT INVESTIGATED		INVESTIGATED			REMEDIES										Total Remedies
	Category 1	Category 2	Category 3	Category 4		Category 5	Total Finalised	Action expedited	Apology	Decision changed or reconsidered	Disciplinary action	Explanation	Financial remedy	Law, policy or practice changed	Other non-financial remedy	
ACT Government	195	264	94	34		587	21	15	35	3	114	14	7	5	4	218
Agriculture, Fisheries and Forestry	70	15	44	11	5	75	1	1			15	1	1	1		20
Attorney-General's	188	244	51	20		503	10	2	6		77		1	6	1	103
Broadband, Communications and the Digital Economy	1,241	2,112	396	48		3,797	79	328	188	265	952	276	30	208	77	2,403
Climate Change and Energy Efficiency	10	15	15	3		43			6		6	3				15
Courts	27	24	3			54	1	2	2		1	1				7
Defence	132	276	93	29		530	18	6	20		63	8	1	23	4	143
Education, Employment and Workplace Relations	176	208	60	12	4	460	6	1	3		79	3		1	2	95
Families, Housing, Community Services and Indigenous Affairs	32	99	24	22		177	1				32		5	9		47
Finance and Deregulation	19	49	6	6		80	2				10	1		1		14
Foreign Affairs and Trade	52	54	17	4		127	5	2			29					36
Health and Ageing	33	48	22	7		110	1		2		15					18
Human Services	3,636	2,376	1,051	231	2	7,296	217	127	209	19	841	382	21	107	68	1,991

continued

PORTFOLIO/AGENCY	NOT INVESTIGATED		INVESTIGATED			Total Finalised	REMEDIES									Total Remedies	
	Category 1	Category 2	Category 3	Category 4	Category 5		Action expedited	Apology	Decision changed or reconsidered	Disciplinary action	Explanation	Financial remedy	Law, policy or practice changed	Other non-financial remedy	Remedy provided by agency without Ombudsman Intervention		
Immigration and Citizenship	1,579	692	641	201	40	1	1,575	25	13	24	1	91	6	3	22	15	200
Industry, Innovation, Climate Change, Science, Research and Tertiary Education	76	19	35	8	1		63	1				2	3				6
Industry, Innovation, Science, Research and Tertiary Education	50	12	32	11			55	1		1			1			1	4
Infrastructure and Transport	60	15	32	7	6		60	1		1		6	6	2		1	11
Norfolk Island	2		1	1			2										
Prime Minister and Cabinet	9	4	5				9										
Regional Australia, Local Government, Arts and Sport	30	9	14	1	2		26	1				2					3
Resources, Energy and Tourism	4		2	1			3										
Sustainability, Environment, Water, Population and Communities	32	12	13	3	2		30					1		1	1		3
Treasury	2,245	896	930	299	134	1	2,260	64	53	43		303	65	3	18	13	562
Out of Jurisdiction/OMB	8,377	7,531	817	6			8,354										
Overseas Student Ombudsman	442	14	244	161	28		447	11	9	84		66	42	12	8	10	242
Private Postal Operators	15	3	12	1			16	1					1				2
GRAND TOTALS	26,474	14,963	8,591	2,543	634	8	26,739	467	559	624	288	2,705	807	87	410	196	6,143

Note: Comprehensive statistics available at www.ombudsman.gov.au/pages/publications-and-media/reports/annual

Appendix 4: Additional Reporting on Postal Industry Ombudsman

This appendix provides additional reporting on the Postal Industry Ombudsman (PIO) function as required under s19X of the Ombudsman Act.

Details of the circumstances and number of occasions where the Postal Industry Ombudsman has made a requirement of a person under section 9:

The Postal Industry Ombudsman made no requirements under section 9 during 2012–13.

Details of the circumstances and number of occasions where the holder of the office of the Postal Industry Ombudsman has decided under subsection 19N(3) to deal with, or to continue to deal with, a complaint or part of a complaint in his or her capacity as the holder of the office of Commonwealth Ombudsman:

There were no occasions where a complaint—or part of a complaint—was transferred from the Postal Industry Ombudsman to the Commonwealth Ombudsman under subsection 19N(3).

Details of recommendations made in reports during the year under section 19V; and statistical information about actions taken during that year as a result of such information:

The Postal Industry Ombudsman made no reports during the year under section 19V.

Details of recommendations made in reports during the year under section 19V; and statistical information about actions taken during that year as a result of such information:

The Postal Industry Ombudsman made no reports during the year under section 19V.

Appendix 5: Agency Resource Statement

Agency resource statement 2012–13

	ACTUAL AVAILABLE APPROPRIATION FOR 2012–13 \$'000	PAYMENTS MADE 2012–13 \$'000	BALANCE 2012–13 \$'000
Ordinary Annual Services ¹			
Departmental appropriation ²	29, 349	20,556	8,793
Total	29, 349	20,556	8,793
Total ordinary annual services	29, 349	20,556	8,793
Other services			
Departmental non-operating			
Equity injections			–
Total	–	–	–
Total other services	–	–	–
Total available annual appropriations and payments	29,349	20,556	8,793
Total net resourcing and payments for the Office of the Commonwealth Ombudsman	29,349	20,556	8,793

¹ Appropriation Act (No. 1) 2012–13. This includes s 31 relevant agency receipts.

² Includes an amount of \$0.606m in 2012–13 for the Departmental Capital Budget. For accounting purposes this amount has been designated as 'contribution by owners'.

Resources summary table – expenses for Outcome 1

Outcome 1: Fair and accountable administrative action by Australian Government agencies by investigating complaints, reviewing administrative action and inspecting statutory compliance by law enforcement agencies.

	BUDGET 2012-13 \$'000	ACTUAL EXPENSES 2012-13 \$'000	VARIANCE 2012-13 \$'000
Program 1: Office of the Commonwealth Ombudsman Departmental expenses			
Departmental appropriation ¹	20,726	19,464	1,262
Expenses not requiring appropriation in the Budget year	876	750	126
Total for Program 1	21,602	20,214	1,388
Outcome 1: Totals by appropriation type Departmental expenses			
Departmental appropriation	20,726	19,464	1,262
Expenses not requiring appropriation in the Budget year	876	750	126
Total for Outcome 1	21,602	20,214	1,388
Average Staffing Level (number)	136	135	1

¹ Departmental Appropriation combines 'Ordinary annual services' (Appropriation Act No. 1) and 'Revenue from independent sources (s 31)'.

Appendix 6: Financial Statements



13 September 2013



Mr Colin Neave
Commonwealth Ombudsman
Office of the Commonwealth Ombudsman
GPO Box 442
CANBERRA ACT 2601

Dear Mr Neave

**OFFICE OF THE COMMONWEALTH OMBUDSMAN
FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2013**

I am writing to advise that the audit of the financial statements of Office of the Commonwealth Ombudsman for the year ended 30 June 2013 has now been completed.

In accordance with section 57 of the *Financial Management and Accountability Act 1997*, I enclose for your information a copy of the auditor's report together with the financial statements to which it relates.

Yours sincerely

Kristian Gage
Audit Principal

Delegate of the Auditor-General

GPO Box 707 CANBERRA ACT 2601
19 National Circuit BARTON ACT 2600
Phone (02) 6203 7300 Fax (02) 6203 7777



INDEPENDENT AUDITOR'S REPORT

To the Cabinet Secretary and Minister for the Public Service and Integrity

I have audited the accompanying financial statements of the Office of the Commonwealth Ombudsman for the year ended 30 June 2013, which comprise: a Statement by the Chief Executive and Chief Financial Officer; Statement of Comprehensive Income; Balance Sheet; Statement of Changes in Equity; Cash Flow Statement; Schedule of Commitments; and Notes to and forming part of the financial statements comprising a Summary of Significant Accounting Policies and other explanatory information.

Chief Executive's Responsibility for the Financial Statements

The Chief Executive of the Office of the Commonwealth Ombudsman is responsible for the preparation of financial statements that give a true and fair view in accordance with the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, including the Australian Accounting Standards, and for such internal control as is necessary to enable the preparation of the financial statements that give a true and fair view and are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

My responsibility is to express an opinion on the financial statements based on my audit. I have conducted my audit in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards. These auditing standards require that I comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Office of the Commonwealth Ombudsman's preparation of the financial statements that give a true and fair view in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Office of the Commonwealth Ombudsman's internal control. An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of accounting estimates made by the Chief Executive of the Office of the Commonwealth Ombudsman, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Independence

In conducting my audit, I have followed the independence requirements of the Australian National Audit Office, which incorporate the requirements of the Australian accounting profession.

Opinion

In my opinion, the financial statements of the Office of the Commonwealth Ombudsman:

- (a) have been prepared in accordance with the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, including the Australian Accounting Standards; and
- (b) give a true and fair view of the matters required by the Finance Minister's Orders including the Office of the Commonwealth Ombudsman's financial position as at 30 June 2013 and of its financial performance and cash flows for the year then ended.

Australian National Audit Office



Kristian Gage
Audit Principal

Delegate of the Auditor-General

Canberra
13 September 2013

STATEMENT BY THE CHIEF EXECUTIVE AND CHIEF FINANCIAL OFFICER

In our opinion, the attached financial statements for the year ended 30 June 2013 are based on properly maintained financial records and give a true and fair view of the matters required by the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, as amended.

Signed 

Colin Neave
Chief Executive

13 September 2013

Signed 

Joanna Stone
Chief Financial Officer

13 September 2013

OFFICE OF THE COMMONWEALTH OMBUDSMAN
STATEMENT OF COMPREHENSIVE INCOME
for the period ended 30 June 2013

	Notes	2013 \$	2012 \$
EXPENSES			
Employee benefits	3A	14,435,160	17,178,711
Supplier expenses	3B	5,009,020	5,174,146
Depreciation and amortisation	3C	702,620	985,270
Losses from asset sales	3D	-	6,255
Write-Down and Impairment of Assets	3E	67,672	40,819
Total expenses		20,214,472	23,385,201
LESS:			
OWN-SOURCE INCOME			
Own-source revenue			
Sale of goods and rendering of services	4A	2,319,667	2,052,436
Total own-source revenue		2,319,667	2,052,436
Gains			
Other gains	4B	47,209	31,000
Total gains		47,209	31,000
Total own-source income		2,366,876	2,083,436
Net cost of (contribution by) services		(17,847,596)	(21,301,765)
Revenue from Government	4C	18,305,000	19,998,000
Surplus (Deficit) attributable to the Australian Government		457,404	(1,303,765)
OTHER COMPREHENSIVE INCOME			
Items not subject to subsequent reclassification to profit or loss			
Changes in asset revaluation surplus		-	7,800
Total other comprehensive income		-	7,800
Total comprehensive income / (loss)		457,404	(1,295,965)
Total comprehensive income / (loss) attributable to the Australian Government		457,404	(1,295,965)

The above statement should be read in conjunction with the accompanying notes.

OFFICE OF THE COMMONWEALTH OMBUDSMAN
BALANCE SHEET
as at 30 June 2013

	Notes	2013 \$	2012 \$
ASSETS			
Financial Assets			
Cash and cash equivalents	5A	86,239	248,108
Trade and other receivables	5B	8,985,143	7,848,535
Other financial assets	5C	-	106,871
Total financial assets		<u>9,071,382</u>	<u>8,203,514</u>
Non-Financial Assets			
Land and buildings	6A,C	1,285,011	1,458,611
Property, plant and equipment	6B,C	802,629	1,017,993
Intangibles	6D,E	260,071	324,137
Other non-financial assets	6F	231,206	417,246
Total non-financial assets		<u>2,578,917</u>	<u>3,217,987</u>
Total Assets		<u>11,650,299</u>	<u>11,421,501</u>
LIABILITIES			
Payables			
Suppliers	7A	390,195	829,859
Other payables	7B	3,269,923	3,439,074
Total payables		<u>3,660,118</u>	<u>4,268,933</u>
Provisions			
Employee provisions	8A	3,515,115	3,739,585
Other provisions	8B	123,786	128,107
Total provisions		<u>3,638,901</u>	<u>3,867,692</u>
Total liabilities		<u>7,299,019</u>	<u>8,136,625</u>
Net Assets		<u>4,351,280</u>	<u>3,284,876</u>
EQUITY			
Parent Entity Interest			
Contributed equity		4,348,000	3,739,000
Reserves		571,010	571,010
Retained surplus (accumulated deficit)		(567,730)	(1,025,134)
Total parent entity interest		<u>4,351,280</u>	<u>3,284,876</u>

The above statement should be read in conjunction with the accompanying notes.

OFFICE OF THE COMMONWEALTH OMBUDSMAN
STATEMENT OF CHANGES IN EQUITY
for the period ended 30 June 2013

	Retained earnings		Asset revaluation reserve		Contributed equity/capital		Total equity	
	2013	2012	2013	2012	2013	2012	2013	2012
	\$	\$	\$	\$	\$	\$	\$	\$
Opening balance								
Balance carried forward from previous period	(1,025,134)	278,631	571,010	563,210	3,739,000	2,980,000	3,284,876	3,821,841
Adjusted opening balance	(1,025,134)	278,631	571,010	563,210	3,739,000	2,980,000	3,284,876	3,821,841
Comprehensive income								
Other comprehensive income	-	-	-	7,800	-	-	-	7,800
Surplus (Deficit) for the period	457,404	(1,303,765)					457,404	(1,303,765)
Total comprehensive income (loss)	457,404	(1,303,765)	-	7,800	-	-	457,404	(1,295,965)
of which:								
Attributable to the Australian Government	457,404	(1,303,765)	-	7,800	-	-	457,404	(1,295,965)
Transactions with owners								
Distributions to owners	-	-	-	-	-	-	-	-
Contributions by owners	-	-	-	-	-	-	-	0
Equity injection - Appropriation	-	-	-	-	-	-	-	-
Departmental capital budget	-	-	-	-	609,000	759,000	609,000	759,000
Sub-total transactions with owners	-	-	-	-	609,000	759,000	609,000	759,000
Closing balance as at 30 June	(567,730)	(1,025,134)	571,010	571,010	4,348,000	3,739,000	4,351,280	3,284,876
Closing balance attributable to the Australian Government	(567,730)	(1,025,134)	571,010	571,010	4,348,000	3,739,000	4,351,280	3,284,876

The above statement should be read in conjunction with the accompanying notes.

OFFICE OF THE COMMONWEALTH OMBUDSMAN
CASH FLOW STATEMENT
for the period ended 30 June 2013

	Notes	2013 \$	2012 \$
OPERATING ACTIVITIES			
Cash received			
Sales of goods and rendering of services		2,272,270	2,004,080
Appropriations		19,930,999	22,192,601
Net GST received		288,999	218,081
Other		361,166	590,259
Total cash received		22,853,434	25,005,021
Cash used			
Employees		14,660,098	17,384,439
Suppliers		5,898,457	4,952,860
Section 31 receipts transferred to the OPA		2,607,058	2,594,339
Total cash used		23,165,613	24,931,638
Net cash from (used by) operating activities	9	(312,179)	73,384
INVESTING ACTIVITIES			
Cash received			
Proceeds from sales of property, plant and equipment		-	-
Total cash received		-	-
Cash used			
Purchase of property, plant and equipment		229,630	197,361
Purchase of intangibles		68,060	101,004
Total cash used		297,690	298,365
Net cash from (used by) investing activities		(297,690)	(298,365)
FINANCING ACTIVITIES			
Cash received			
Contributed equity			25,000
Departmental Capital Budget		448,000	235,000
Total cash received		448,000	260,000
Net cash from (used by) financing activities		448,000	260,000
Net increase (decrease) in cash held		(161,869)	35,019
Cash and cash equivalents at the beginning of the reporting period		248,108	213,089
Cash and cash equivalents at the end of the reporting period	5A	86,239	248,108

The above statement should be read in conjunction with the accompanying notes.

OFFICE OF THE COMMONWEALTH OMBUDSMAN
SCHEDULE OF COMMITMENTS
as at 30 June 2013

	2013	2012
BY TYPE	\$	\$
Commitments receivable		
Sale of services	1,226,280	1,225,128
Net GST recoverable on commitments	1,630,008	1,733,396
Total commitments receivable	2,856,288	2,958,524
Commitments payable		
Operating leases	18,397,066	20,020,416
Other	759,294	272,071
Total commitments payable	19,156,360	20,292,487
Net commitments by type	16,300,072	17,333,963
BY MATURITY		
Commitments receivable		
Sale of services		
One year or less	918,280	741,128
From one to five years	308,000	484,000
Total services income	1,226,280	1,225,128
GST recoverable on commitments		
One year or less	103,329	113,269
From one to five years	624,963	585,379
Over five years	901,716	1,034,748
Total GST recoverable	1,630,008	1,733,396
Commitments payable		
Operating lease commitments		
One year or less	1,757,404	1,732,524
From one to five years	6,720,790	6,905,660
Over five years	9,918,872	11,382,232
Total operating lease commitments	18,397,066	20,020,416
Other Commitments		
One year or less	297,491	254,565
From one to five years	461,803	17,506
Total other commitments	759,294	272,071
Net commitments by maturity	16,300,072	17,333,963

NB: Commitments are GST inclusive where relevant.

This schedule should be read in conjunction with the accompanying notes.

The nature of other commitments are for office administration costs.

Operating leases included are effectively non-cancellable and comprise leases for office accommodation.

General description of all leasing arrangements (the office was the lessee)

Leases for office accommodation: lease payments for Canberra, Adelaide, Melbourne and Brisbane were subject to a fixed rate increase in accordance with each contract. The initial periods of office accommodation leases are still current and Brisbane and Melbourne may be renewed for up to five years at the Office's option.

OFFICE OF THE COMMONWEALTH OMBUDSMAN
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR
THE YEAR ENDED 30 JUNE 2013

Note	Page
1: Summary of Significant Accounting Policies	144
2: Events After the Reporting Period	152
3: Expenses	153
4: Income	155
5: Financial Assets	156
6: Non-Financial Assets	157
7: Payables	160
8: Provisions	161
9: Cash Flow Reconciliation	162
10: Contingent Liabilities and Assets	163
11: Senior Executive Remuneration	164
12: Remuneration of Auditors	167
13: Financial Instruments	168
14: Financial Assets Reconciliation	169
15: Appropriations	170
16: Compensation and Debt Relief	173
17: Reporting of Outcomes	174
18: Net Cash Appropriation Arrangements	175

Note 1: Summary of Significant Accounting Policies

1.1 Office of the Commonwealth Ombudsman Objectives

The Office of the Commonwealth Ombudsman is an Australian Government controlled entity. It is a not for profit entity. The objective of the Office of the Commonwealth Ombudsman is to provide a cost-effective form of independent administrative review, which is timely, informal and involves no direct cost to individuals. Coverage is comprehensive, embracing almost all of the administrative activity of the Commonwealth departments and agencies.

Through the handling of complaints and the conduct of own motion investigations, the Office contributes to continuous improvement in the performance of agencies and their accountability to Government, the Parliament and the community.

The Office is structured to meet one outcome:

Outcome 1: Fair and accountable administrative action by Australian Government agencies by investigating complaints, reviewing administrative action and inspecting statutory compliance by law enforcement agencies.

The continued existence of the Office in its present form and with its present programs is dependent on Government policy and on continuing appropriations by Parliament for the Office's administration and programs.

The Office's activities contributing toward this outcome are classified as departmental. Departmental activities involve the use of assets, liabilities, income and expenses controlled or incurred by the Office in its own right. The Office has no administered activities.

1.2 Basis of Preparation of the Financial Statements

The financial statements are general purpose financial statements and are required by section 49 of the *Financial Management and Accountability Act 1997*.

The Financial Statements have been prepared in accordance with:

- Finance Minister's Orders (or FMO) for reporting periods ending on or after 1 July 2012; and
- Australian Accounting Standards and Interpretations issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

The financial statements have been prepared on an accrual basis and in accordance with the historical cost convention, except for certain assets and liabilities at fair value. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position.

The financial statements are presented in Australian dollars.

Unless an alternative treatment is specifically required by an accounting standard or the FMO, assets and liabilities are recognised in the balance sheet when and only when it is probable that future economic benefits will flow to the entity or a future sacrifice of economic benefits will be required and the amounts of the assets or liabilities can be reliably measured. However, assets and liabilities arising under Agreements Equally Proportionately Unperformed are not recognised unless required by an accounting standard. Liabilities and assets that are unrecognised are reported in the schedule of commitments or the schedule of contingencies.

Unless alternative treatment is specifically required by an accounting standard, income and expenses are recognised in the statement of comprehensive income when and only when the flow, consumption or loss of economic benefits has occurred and can be reliably measured.

The Office has had no administered revenues, expenses, assets, liabilities or cash flows in the year ended 30 June 2013 or in the comparative financial year.

1.3 Significant Accounting Judgements and Estimates

No accounting assumptions or estimates or other judgements have been identified that have a significant risk of causing a material adjustment to carrying amounts of assets and liabilities within the next accounting period.

Note 1: Summary of Significant Accounting Policies

1.4 New Australian Accounting Standards

Adoption of New Australian Accounting Standard Requirements

No accounting standard has been adopted earlier than the application date as stated in the respective standard.

Future Australian Accounting Standard Requirements

New standards, reissued standards, amendments to standards or interpretations ("the new requirements") applicable to future reporting periods have been issued by the Australian Accounting Standards Board during the year. It is anticipated that the new requirements will have no material financial impact on future reporting periods.

1.5 Revenue

Other Types of Revenue

Revenue from the sale of goods is recognised when:

- the risks and rewards of ownership have been transferred to the buyer;
- the Office retains no managerial involvement or effective control over the goods;
- the revenue and transaction costs incurred can be reliably measured; and
- it is probable that the economic benefits associated with the transaction will flow to the entity.

Revenue from rendering of services is recognised by reference to the stage of completion of contracts at the reporting date. The revenue is recognised when:

- the amount of revenue, stage of completion and transaction costs incurred can be reliably measured; and
- the probable economic benefits associated with the transaction will flow to the entity.

The stage of completion of contracts at the reporting date is determined by reference to the proportion that costs incurred to date bear to the estimated total costs of the transaction.

Receivables for goods and services, which have 30 day terms, are recognised at the nominal amounts due less any impairment allowance account. Collectability of debts is reviewed at end of reporting period. Allowances are made when collectability of the debt is no longer probable.

Resources Received Free of Charge

Resources received free of charge are recognised as revenue when, and only when, a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense.

Resources received free of charge are recorded as either revenue or gains depending on their nature.

Revenue from Government

Amounts appropriated for departmental outputs for the year (adjusted for any formal additions and reductions) are recognised as Revenue from Government when the Office gains control of the appropriation, except for certain amounts that relate to activities that are reciprocal in nature, in which case revenue is recognised only when it has been earned. Appropriations receivable are recognised at their nominal amounts.

Note 1: Summary of Significant Accounting Policies

1.6 Gains

Resources Received Free of Charge

Resources received free of charge are recognised as gains when, and only when, a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense.

Resources received free of charge are recorded as either revenue or gains depending on their nature.

Contributions of assets at no cost of acquisition or for nominal consideration are recognised as gains at their fair value when the asset qualifies for recognition, unless received from another Government Office or authority as a consequence of a restructuring of administrative arrangements (Refer to Note 1.7).

Sale of Assets

Gains from disposal of assets are recognised when control of the asset has passed to the buyer.

1.7 Transactions with the Government as Owner

Equity Injections

Amounts appropriated which are designated as 'equity injections' for a year (less any formal reductions) and Departmental Capital Budgets (DCBs) are recognised directly in contributed equity in that year.

Restructuring of Administrative Arrangements

Net assets received from or relinquished to another Australian Government Office or authority under a restructuring of administrative arrangements are adjusted at their book value directly against contributed equity.

Other Distributions to Owners

The FMOs require that distributions to owners be debited to contributed equity unless in the nature of a dividend.

1.8 Employee Benefits

Liabilities for 'short-term employee benefits' (as defined in AASB 119 *Employee Benefits*) and termination benefits due within twelve months of end of reporting period are measured at their nominal amounts.

The nominal amount is calculated with regard to the rates expected to be paid on settlement of the liability.

Other long-term employee benefits are measured as net total of the present value of the defined benefit obligation at the end of the reporting period minus the fair value at the end of the reporting period of plan assets (if any) out of which the obligations are to be settled directly.

Leave

The liability for employee benefits includes provision for annual leave and long service leave. No provision has been made for sick leave as all sick leave is non-vesting and the average sick leave taken in future years by employees of the Office is estimated to be less than the annual entitlement for sick leave.

The leave liabilities are calculated on the basis of employees' remuneration at the estimated salary rates that will be applied at the time the leave is taken, including the Office's employer superannuation contribution rates to the extent that the leave is likely to be taken during service rather than paid out on termination.

The liability for long service leave has been determined by reference to the estimated future cash flows to be made in respect to all employees as at 30 June 2013. The estimate of the present value of the liability takes into account attrition rates and pay increases through promotion and inflation.

Note 1: Summary of Significant Accounting Policies

Separation and Redundancy

Provision is made for separation and redundancy benefit payments. The Office recognises a provision for termination when it has developed a detailed formal plan for the terminations and has informed those employees affected that it will carry out the terminations.

Superannuation

Staff of the Office are members of the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS), the PSS accumulation plan (PSSap) or some other fund.

The CSS and PSS are defined benefit schemes for the Australian Government. The PSSap and the other funds are defined contribution schemes.

The liability for defined benefits is recognised in the financial statements of the Australian Government and is settled by the Australian Government in due course. This liability is reported by the Department of Finance and Deregulation as an administered item.

The Office makes employer contributions to the employee superannuation scheme at rates determined by an actuary to be sufficient to meet the current cost to the Government of the superannuation entitlements of the Office's employees. The Office accounts for the contributions as if they were contributions to defined contribution plans.

The liability for superannuation recognised as at 30 June represents outstanding contributions for the final week of the year.

1.9 Leases

A distinction is made between finance leases and operating leases. Finance leases effectively transfer from the lessor to the lessee substantially all the risks and rewards incidental to ownership of leased assets. An operating lease is a lease that is not a finance lease. In operating leases, the lessor effectively retains substantially all such risks and benefits.

Where an asset is acquired by means of a finance lease, the asset is capitalised at either the fair value of the lease property or, if lower, the present value of minimum lease payments at the inception of the contract and a liability is recognised at the same time and for the same amount.

The discount rate used is the interest rate implicit in the lease. Leased assets are amortised over the period of the lease. Lease payments are allocated between the principal component and the interest expense.

Operating lease payments are expensed on a straight-line basis which is representative of the pattern of benefits derived from the leased assets.

1.10 Borrowing Costs

All borrowing costs are expensed as incurred.

1.11 Cash

Cash and cash equivalents includes cash on hand, cash held with outsiders, demand deposits in bank accounts with an original maturity of 3 months or less that are readily convertible to known amounts of cash and subject to insignificant risk of changes in value. Cash is recognised at its nominal amount.

1.12 Financial Assets

The Office classifies its financial assets in the following categories:

- financial assets at fair value through profit or loss; and
- loans and receivables.

Note 1: Summary of Significant Accounting Policies

The classification depends on the nature and purpose of the financial assets and is determined at the time of initial recognition. Financial assets are recognised and derecognised upon trade date.

Financial Assets at Fair Value Through Profit or Loss

Financial assets are classified as financial assets at fair value through profit or loss where the financial assets:

- have been acquired principally for the purpose of selling in the near future;
- are a part of an identified portfolio of financial instruments that the Office manages together and has a recent actual pattern of short-term profit-taking; or
- are derivatives that are not designated and effective as a hedging instrument.

Assets in this category are classified as current assets.

Financial assets at fair value through profit or loss are stated at fair value, with any resultant gain or loss recognised in profit or loss. The net gain or loss recognised in profit or loss incorporates any interest earned on the financial asset.

Loans and Receivables

Trade receivables, loans and other receivables that have fixed or determinable payments that are not quoted in an active market are classified as 'loans and receivables'. Loans and receivables are measured at amortised cost using the effective interest method less impairment. Interest is recognised by applying the effective interest rate.

Impairment of Financial Assets

Financial assets are assessed for impairment at the end of each reporting period.

- *Financial assets held at amortised cost* - if there is objective evidence that an impairment loss has been incurred for loans and receivables or held to maturity investments held at amortised cost, the amount of the loss is measured as the difference between the asset's carrying amount and the present value of estimated future cash flows discounted at the asset's original effective interest rate. The carrying amount is reduced by way of an allowance account. The loss is recognised in the statement of comprehensive income.
- *Available for sale financial assets* - if there is objective evidence that an impairment loss on an available-for-sale financial asset has been incurred, the amount of the difference between its cost, less principal repayments and amortisation, and its current fair value, less any impairment loss previously recognised in expenses, is transferred from equity to the statement of comprehensive income.
- *Financial assets held at cost* - If there is objective evidence that an impairment loss has been incurred the amount of the impairment loss is the difference between the carrying amount of the asset and the present value of the estimated future cash flows discounted at the current market rate for similar assets.

1.13 Financial Liabilities

Financial liabilities are classified as either financial liabilities 'at fair value through profit or loss' or other financial liabilities. Financial liabilities are recognised and derecognised upon 'trade date'.

Financial Liabilities at Fair Value Through Profit or Loss

Financial liabilities at fair value through profit or loss are initially measured at fair value. Subsequent fair value adjustments are recognised in profit or loss. The net gain or loss recognised in profit or loss incorporates any interest paid on the financial liability.

Note 1: Summary of Significant Accounting Policies**Other Financial Liabilities**

Other financial liabilities, including borrowings, are initially measured at fair value, net of transaction costs.

These liabilities are subsequently measured at amortised cost using the effective interest method, with interest expense recognised on an effective yield basis.

The effective interest method is a method of calculating the amortised cost of a financial liability and of allocating interest expense over the relevant period. The effective interest rate is the rate that exactly discounts estimated future cash payments through the expected life of the financial liability, or, where appropriate, a shorter period.

Supplier and other payables are recognised at amortised cost. Liabilities are recognised to the extent that the goods or services have been received (and irrespective of having been invoiced).

1.14 Contingent Liabilities and Contingent Assets

Contingent liabilities and contingent assets are not recognised in the balance sheet but are reported in the relevant schedules and notes. They may arise from uncertainty as to the existence of a liability or asset or represent an asset or liability in respect of which the amount cannot be reliably measured. Contingent assets are disclosed when settlement is probable but not virtually certain and contingent liabilities are disclosed when settlement is greater than remote.

1.15 Acquisition of Assets

Assets are recorded at cost on acquisition except as stated below. The cost of acquisition includes the fair value of assets transferred in exchange and liabilities undertaken. Financial assets are initially measured at their fair value plus transaction costs where appropriate.

Assets acquired at no cost, or for nominal consideration, are initially recognised as assets and income at their fair value at the date of acquisition, unless acquired as a consequence of restructuring of administrative arrangements. In the latter case, assets are initially recognised as contributions by owners at the amounts at which they were recognised in the transferor Office's accounts immediately prior to the restructuring.

1.16 Property, Plant and Equipment**Asset Recognition Threshold**

Purchases of property, plant and equipment are recognised initially at cost in the balance sheet, except for purchases costing less than \$2,000, which are expensed in the year of acquisition (other than where they form part of a group of similar items which are significant in total).

The initial cost of an asset includes an estimate of the cost of dismantling and removing the item and restoring the site on which it is located. This is particularly relevant to 'makegood' provisions in property leases taken up by the Office where there exists an obligation to restore the property to its original condition. These costs are included in the value of the Office's leasehold improvements with a corresponding provision for the 'makegood' recognised.

Note 1: Summary of Significant Accounting Policies**Revaluations**

Fair values for each class of asset are determined as shown below:

Asset Class	Fair value measured at:
Leasehold improvements	Depreciated replacement cost
Plant and equipment	Market selling price

Following initial recognition at cost, property plant and equipment are carried at fair value less subsequent accumulated depreciation and accumulated impairment losses. Valuations are conducted with sufficient frequency to ensure that the carrying amounts of assets do not differ materially from the assets' fair values as at the reporting date. The regularity of independent valuations depends upon the volatility of movements in market values for the relevant assets.

Revaluation adjustments are made on a class basis. Any revaluation increment is credited to equity under the heading of asset revaluation reserve except to the extent that it reverses a previous revaluation decrement of the same asset class that was previously recognised in the surplus/deficit. Revaluation decrements for a class of assets are recognised directly in the surplus/deficit except to the extent that they reverse a previous revaluation increment for that class.

Any accumulated depreciation as at the revaluation date is eliminated against the gross carrying amount of the asset and the asset restated to the revalued amount.

Depreciation

Depreciable property, plant and equipment assets are written-off to their estimated residual values over their estimated useful lives to the Office using, in all cases, the straight-line method of depreciation.

Depreciation rates (useful lives), residual values and methods are reviewed at each reporting date and necessary adjustments are recognised in the current, or current and future reporting periods, as appropriate.

Depreciation rates applying to each class of depreciable asset are based on the following useful lives:

	2013	2012
Leasehold improvements	Lease term	Lease term
Plant and Equipment	3 to 10 years	3 to 10 years

Impairment

All assets were assessed for impairment at 30 June 2013. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

The recoverable amount of an asset is the higher of its fair value less costs to sell and its value in use. Value in use is the present value of the future cash flows expected to be derived from the asset. Where the future economic benefit of an asset is not primarily dependent on the asset's ability to generate future cash flows, and the asset would be replaced if the Office were deprived of the asset, its value in use is taken to be its depreciated replacement cost.

Derecognition

An item of property, plant and equipment is derecognised upon disposal or when no further future economic benefits are expected from its use or disposal.

Note 1: Summary of Significant Accounting Policies

1.17 Intangibles

The Office's intangibles comprise internally developed software for internal use. These assets are carried at cost less accumulated amortisation and accumulated impairment losses.

Software is amortised on a straight-line basis over its anticipated useful life. The useful lives of the Office's software are 1 to 8 years (2012: 1 to 8 years).

All software assets were assessed for indications of impairment as at 30 June 2013.

1.18 Taxation

The Office is exempt from all forms of taxation except Fringe Benefits Tax (FBT) and the Goods and Services Tax (GST).

Revenues, expenses and assets are recognised net of GST except:

- where the amount of GST incurred is not recoverable from the Australian Taxation Office; and
- for receivables and payables.

Note 2: Events After the Reporting Period

No significant events occurred after balance date that would materially affect the financial statements.

Note 3: Expenses

	2013	2012
	\$	\$
Note 3A: Employee Benefits		
Wages and salaries	10,997,640	12,637,605
Superannuation:		
Defined contribution plans	767,456	805,214
Defined benefit plans	1,230,755	1,190,754
Leave and other entitlements	1,439,309	2,200,320
Separation and redundancies	-	344,818
Total employee benefits	14,435,160	17,178,711

Note 3B: Suppliers

Goods and services

Travel	757,254	913,601
Information technology and communications	671,825	725,839
Employee related	533,136	462,111
Property operating expenses	235,704	312,552
Media related	188,631	277,364
Consultants and contractors	395,338	193,227
Printing, stationery and postage	123,471	156,824
Legal	26,714	150,196
Other	209,277	302,040
Total goods and services	3,141,350	3,493,754

Goods and services are made up of:

Provision of goods – external parties	155,191	230,364
Rendering of services – related entities	336,514	502,489
Rendering of services – external parties	2,649,645	2,760,901
Total goods and services	3,141,350	3,493,754

Other supplier expenses

Operating lease rentals – external parties:		
Minimum lease payments	1,593,789	1,517,618
Workers compensation expenses	273,881	162,774
Total other supplier expenses	1,867,670	1,680,392
Total supplier expenses	5,009,020	5,174,146

Note 3C: Depreciation and Amortisation

Depreciation:

Leasehold improvements	300,677	421,357
Property, plant and equipment	291,951	433,150

Amortisation:

Intangibles - Computer Software	109,992	130,763
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Total depreciation and amortisation	702,620	985,270
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Note 3: Expenses

	2013	2012
	\$	\$
<u>Note 3D: Losses from Asset Sales</u>		
Property, plant and equipment:		
Proceeds from sale	-	(346)
Carrying value of assets sold	-	5,983
Selling expense	-	618
Total losses from asset sales	-	6,255
<u>Note 3E: Write-Down and Impairment of Assets</u>		
Asset write-downs and impairments from:		
Impairment on financial instruments	19,573	40,819
Impairment of property, plant and equipment	25,965	-
Impairment on intangible assets	22,134	-
Total write-down and impairment of assets	67,672	40,819

OFFICE OF THE COMMONWEALTH OMBUDSMAN
 NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR
 ENDED 30 JUNE 2013

Note 4: Income

	2013	2012
REVENUE	\$	\$

Note 4A: Sale of Goods and Rendering of Services

Rendering of services - related entities	1,303,034	987,139
Rendering of services - external parties	1,016,633	1,065,297
Total sale of goods and rendering of services	2,319,667	2,052,436

Note 4B: Other Gains

Resources received free of charge	47,209	31,000
Total other gains	47,209	31,000

REVENUE FROM GOVERNMENT

Note 4C: Revenue from Government

Appropriations:		
Departmental appropriation	18,305,000	19,998,000
Total revenue from Government	18,305,000	19,998,000

OFFICE OF THE COMMONWEALTH OMBUDSMAN

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2013

Note 5: Financial Assets

	2013	2012
	\$	\$
Note 5A: Cash and Cash Equivalents		
Cash on hand or on deposit	86,239	248,108
Total cash and cash equivalents	86,239	248,108

Note 5B: Trade and Other Receivables

Good and Services:

Goods and services - related entities	104,596	-
Goods and services - external parties	120,144	187,859
Total receivables for goods and services	224,740	187,859

Appropriations receivable:

For existing programs	8,706,398	7,564,339
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Other receivables:

GST receivable from the Australian Taxation Office	54,005	96,337
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Total trade and other receivables (gross)	8,985,143	7,848,535
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Receivables are expected to be recovered within 12 months.

Receivables are aged as follows:

Not overdue	8,966,766	7,798,861
Overdue by:		
0 to 30 days	18,377	-
31 to 60 days	-	-
61 to 90 days	-	-
More than 90 days	-	49,674
Total trade and other receivables (gross)	8,985,143	7,848,535

No receivables are deemed to be impaired as at 30 June 2013.

Note 5C: Other Financial Assets

Lease incentives	-	106,871
Total other financial assets	-	106,871

Total other financial assets are expected to be recovered within 12 months.

Note 6: Non-Financial Assets

	2013 \$	2012 \$
Note 6A: Land and Buildings		
Leasehold improvements:		
Fair value	1,845,565	1,664,781
Work in progress	41,371	215,187
Accumulated depreciation	(601,925)	(421,357)
Total leasehold improvements	1,285,011	1,458,611
Total Land and Buildings	1,285,011	1,458,611

Note 6B: Property, Plant and Equipment

Other property, plant and equipment:		
Fair value	1,471,155	1,424,509
Accumulated depreciation	(668,526)	(406,516)
Total other property, plant and equipment	802,629	1,017,993

All revaluations were conducted in accordance with the revaluation policy stated at Note 1. An independent valuer conducted the revaluations as at 30 June 2011.

No indicators of impairment were found for property, plant and equipment.

No property, plant and equipment is expected to be sold or disposed of within the next 12 months.

Note 6C: Reconciliation of the Opening and Closing Balances of Property, Plant and Equipment (2012-13)

	Leasehold improvements \$	Other property, plant & equipment \$	Total \$
As at 1 July 2012			
Gross book value	1,879,968	1,424,509	3,304,477
Accumulated depreciation and impairment	(421,357)	(406,516)	(827,873)
Net book value 1 July 2012	1,458,611	1,017,993	2,476,604
Additions:			
By purchase	127,077	102,552	229,628
Depreciation expense	(300,677)	(291,951)	(592,628)
Disposals:			
Other	-	(25,965)	(25,965)
Net book value 30 June 2013	1,285,011	802,629	2,087,640
Net book value as of 30 June 2013 represented by:			
Gross book value	1,886,936	1,471,155	3,358,091
Accumulated depreciation	(601,925)	(668,526)	(1,270,451)
Accumulated impairment losses	-	-	-
Net book value 30 June 2013	1,285,011	802,629	2,087,640

Note 6: Non-Financial Assets**Note 6C (cont'd): Reconciliation of the Opening and Closing Balances of Property, Plant and Equipment (2011-12)**

	Leasehold improvements \$	Other property, plant & equipment \$	Total \$
As at 1 July 2011			
Gross book value	1,596,991	1,337,760	2,934,751
Accumulated depreciation and impairment	-	(863)	(863)
Net book value 1 July 2011	1,596,991	1,336,897	2,933,888
Additions:			
By purchase	282,977	120,229	403,206
Depreciation expense	(421,357)	(433,150)	(854,507)
Disposals:			
Other	-	(5,983)	(5,983)
Net book value 30 June 2012	1,458,611	1,017,993	2,476,604
Net book value as of 30 June 2012 represented by:			
Gross book value	1,879,968	1,424,509	3,304,477
Accumulated depreciation	(421,357)	(406,516)	(827,873)
Net book value 30 June 2013	1,458,611	1,017,993	2,476,604

	2013 \$	2012 \$
Note 6D: Intangibles		
Computer software:		
Purchased	1,360,624	1,548,413
Work in progress	103,594	68,677
Accumulated amortisation	(1,204,147)	(1,292,953)
Total computer software	260,071	324,137
Total intangibles	260,071	324,137

Impairment tests were carried out during the year which resulted in \$22,134 being impaired (2012: Nil).

No intangibles are expected to be sold or disposed of within the next 12 months.

Note 6: Non-Financial Assets**Note 6E: Reconciliation of the Opening and Closing Balances of Intangibles (2012-13)**

	Computer software purchased \$
As at 1 July 2012	
Gross book value	1,617,090
Accumulated amortisation and impairment	(1,292,953)
Net book value 1 July 2012	324,137
Additions:	
By purchase	20,367
Internally developed	47,693
Impairments recognised in the operating result	(22,134)
Amortisation	(109,992)
Disposals:	
Other	-
Net book value 30 June 2013	260,071
Net book value as of 30 June 2013 represented by:	
Gross book value	1,464,218
Accumulated amortisation and impairment	(1,204,147)
Net book value 30 June 2013	260,071

Note 6E (cont'd): Reconciliation of the Opening and Closing Balances of Intangibles (2011-12)

	Computer software purchased \$
As at 1 July 2011	
Gross book value	1,516,085
Accumulated amortisation and impairment	(1,162,191)
Net book value 1 July 2011	353,894
Additions:	
By purchase	101,006
Amortisation	(130,763)
Net book value 30 June 2012	324,137
Net book value as of 30 June 2012 represented by:	
Gross book value	1,617,090
Accumulated amortisation and impairment	(1,292,953)
Net book value 30 June 2012	324,137

	2013 \$	2012 \$
Note 6F: Other Non-Financial Assets		
Prepayments	231,206	417,246
Total other non-financial assets	231,206	417,246

No indicators of impairment were found for other non-financial assets.
Total other non-financial assets are expected to be recovered in within 12 months.

Note 7: Payables

	2013	2012
	\$	\$
Note 7A: Suppliers		
Trade creditors and accruals	390,195	829,859
Total supplier payables	<u>390,195</u>	<u>829,859</u>
Supplier payables are expected to be settled within 12 months:		
Related entities	64,789	306,672
External parties	325,406	523,187
Total supplier payables	<u>390,195</u>	<u>829,859</u>

Settlement is usually made within 30 days.

Note 7B: Other Payables

Salaries and wages	362,304	328,008
Superannuation	57,943	52,242
Lease incentives	1,659,400	1,859,350
Fixed lease increase	945,404	734,370
Unearned income	223,468	376,952
Other	21,404	88,152
Total other payables	<u>3,269,923</u>	<u>3,439,074</u>
Total other payables are expected to be settled in:		
No more than 12 months	870,793	1,256,338
More than 12 months	2,399,130	2,182,736
Total operating leases	<u>3,269,923</u>	<u>3,439,074</u>

Note 8: Provisions

	2013	2012
	\$	\$
Note 8A: Employee Provisions		
Leave	3,515,115	3,739,585
Total employee provisions	3,515,115	3,739,585
Employee provisions are expected to be settled in:		
No more than 12 months	1,085,024	1,164,121
More than 12 months	2,430,091	2,575,464
Total employee provisions	3,515,115	3,739,585
Note 8B: Other Provisions		
Provision for restoration obligations	123,786	128,107
Total other provisions	123,786	128,107
Other provisions are expected to be settled in:		
No more than 12 months	50,670	17,316
More than 12 months	73,116	110,791
Total other provisions	123,786	128,107
	Provision for restoration	
	\$	
Carrying amount 1 July 2012	128,107	
Amounts used	(4,321)	
Closing balance 2013	123,786	

The Office currently has three agreements (2012: four) for the leasing of premises which have provisions requiring the Office to restore the premises to their original condition at the conclusion of the lease. The Office has made a provision to reflect the value of this obligation.

Note 9: Cash Flow Reconciliation

	2013	2012
	\$	\$
Reconciliation of cash and cash equivalents as per Balance Sheet to Cash Flow Statement		
Cash and cash equivalents as per:		
Cash flow statement	86,239	248,108
Balance sheet	86,239	248,108
Difference	<u>-</u>	<u>-</u>
 Reconciliation of net cost of services to net cash from operating activities:		
Net cost of services	(17,847,596)	(21,301,765)
Add revenue from Government	18,305,000	19,998,000
 Adjustments for non-cash items		
Depreciation / amortisation	702,620	985,270
Net write down of non-financial assets	48,099	-
(Gain)/loss on disposal of assets	-	5,636
 Changes in assets / liabilities		
(Increase) / decrease in net receivables	(975,607)	(552,720)
(Increase) / decrease in other financial assets	106,871	284,073
(Increase) / decrease in prepayments	186,040	(172,740)
Increase / (decrease) in employee provisions	(224,470)	374,063
Increase / (decrease) in supplier payables	(439,664)	102,964
Increase / (decrease) in other payable	(173,472)	350,603
Net cash from (used by) operating activities	<u>(312,179)</u>	<u>73,384</u>

Note 10: Contingent Liabilities and Assets

The Office has no contingent liabilities.

The Office has identified in its contracts and leases a number of indemnity provisions. None of these are quantifiable and all are considered remote. There are no existing or likely claims of which the office is aware.

Note 11: Senior Executive RemunerationNote 11A: Senior Executive Remuneration Expense for the Reporting Period

	2013	2012
	\$	\$
Short-term employee benefits:		
Salary	958,139	1,016,125
Annual leave accrued	95,523	117,880
Performance bonuses	-	-
Motor vehicle and other allowances	96,065	176,005
Total short-term employee benefits	1,149,727	1,310,010
Post-employment benefits:		
Superannuation	148,159	155,907
Total post-employment benefits	148,159	155,907
Other long-term benefits:		
Long-service leave	29,173	46,923
Total other long-term benefits	29,173	46,923
Total	1,327,059	1,512,841

Notes:

1. Note 11A excludes acting arrangements and part-year service where remuneration expensed for a Senior Executive was less than \$180,000.

2. Note 11A is prepared on an accrual basis.

Note 11: Senior Executive Remuneration (cont'd)

Note 11B: Average Annual Reportable Remuneration Paid to Substantive Senior Executives During the Reporting Period

Average annual reportable remuneration ^a	Substantive Senior Executives No.	2013				
		Reportable salary ^a	Contributed superannuation ^b	Reportable allowances ^c	Bonus paid ^d	Total reportable remuneration
		\$	\$	\$	\$	\$
Total remuneration (including part-time arrangements):						
less than \$180,000	4	56,529	5,742	-	-	62,271
\$180,000 to \$209,999	1	160,758	19,508	-	-	180,266
\$210,000 to \$239,999	1	199,822	26,293	-	-	226,115
\$240,000 to \$269,999	2	222,344	30,921	-	-	253,265
\$300,000 to \$329,999	1	276,548	42,589	-	-	319,137
Total	9					
Average annual reportable remuneration ^a	Senior Executives No.	2012				
		Reportable salary ^a	Contributed superannuation ^b	Reportable allowances ^c	Bonus paid ^d	Total
		\$	\$	\$	\$	\$
Total remuneration (including part-time arrangements):						
less than \$180,000	2	100,962	14,860	-	-	115,821
\$180,000 to \$209,999	1	163,698	19,419	-	-	183,117
\$210,000 to \$239,999	4	195,972	25,635	-	-	221,606
\$330,000 to \$359,999	1	301,187	33,950	-	-	335,137
Total	8					

Notes:

- These tables report substantive senior executives who received remuneration during the reporting period. Each row is an averaged figure based on headcount for individuals in the band.
- Reportable salary includes the following:
 - gross payments (less any bonuses paid, which are separated out and disclosed in the 'bonus paid' column);
 - reportable fringe benefits (at the net amount prior to 'grossing up' to account for tax benefits);
 - exempt foreign employment income; and
 - salary sacrificed amounts.
- The 'contributed superannuation' amount is the average actual superannuation contributions paid to senior executives in that reportable remuneration band during the reporting period, including any salary sacrificed amounts, as per a report from the payroll system.
- Reportable allowances are the average actual allowances paid as per the 'total allowances' line on individuals' payment summaries.
- 'Bonus paid' represents average actual bonuses paid during the reporting period in that reportable remuneration band. The 'bonus paid' within a particular band may vary between financial years due to various factors such as individuals commencing with or leaving the entity during the financial year.
- Various salary sacrifice arrangements were available to senior executives including superannuation, motor vehicle and expense payment fringe benefits. Salary sacrifice benefits are reported in the 'reportable salary' column, excluding salary sacrificed superannuation, which is reported in the 'contributed superannuation' column.

OFFICE OF THE COMMONWEALTH OMBUDSMAN
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2013

Note 11: Senior Executive Remuneration (cont'd)

Note 11C: Average Annual Reportable Remuneration Paid to Other Highly Paid Staff during the Reporting Period

Average Annual Reportable Remuneration paid to other highly paid staff in 2013					
Average annual reportable remuneration ¹	Staff No.	Reportable salary ²	Contributed superannuation ³	Reportable allowances ⁴	Bonus paid ⁵
		\$	\$	\$	\$
Total remuneration (including part-time arrangements):	1	190,793	16,122		
\$180,000 to \$209,999	1				
Total					206,915

Notes:

- This table reports staff:
 - who were employed by the entity during the reporting period;
 - whose reportable remuneration was \$180,000 or more for the financial period; and
 - were not required to be disclosed in Tables A, B or director disclosures.
 Each row is an averaged figure based on headcount for individuals in the band.
- 'Reportable salary' includes the following:
 - gross payments (less any bonuses paid, which are separated out and disclosed in the 'bonus paid' column);
 - reportable fringe benefits (at the net amount prior to 'grossing up' to account for tax benefits);
 - exempt foreign employment income; and
 - salary sacrificed amounts.
- The 'contributed superannuation' amount is the average actual superannuation contributions paid to senior executives in that reportable remuneration band during the reporting period, including any salary sacrificed amounts, as per a report from the payroll system.
- 'Reportable allowances' are the average actual allowances paid as per the 'total allowances' line on individuals' payment summaries.
- 'Bonus paid' represents average actual bonuses paid during the reporting period in that reportable remuneration band. The 'bonus paid' within a particular band may vary between financial years due to various factors such as individuals commencing with or leaving the entity during the financial year.
- Various salary sacrifice arrangements were available to other highly paid staff including superannuation, motor vehicle and expense payment fringe benefits. Salary sacrifice benefits are reported in the 'reportable salary' column, excluding salary sacrificed superannuation, which is reported in the 'contributed superannuation' column.

There were no other highly paid staff in 2012.

Note 12: Remuneration of Auditors

	2013	2012
	\$	\$
Financial statement audit services were provided free of charge to the entity by the Australian National Audit Office.		
The fair value of the services provided was:	32,000	31,000
No other services were provided by the Australian National Audit Office.		

Note 13: Financial Instruments

	Notes	2013 \$	2012 \$
Note 13A: Categories of Financial Instruments			
Financial Assets			
Loans and receivables:			
Cash and cash equivalents	5A	86,239	248,108
Trade and other receivables	5B	224,740	187,859
Carrying amount of financial assets		310,979	435,967
Financial Liabilities			
At amortised cost:			
Supplier payables	7A	390,195	829,859
Carrying amount of financial liabilities		390,195	829,859
Note 13B: Net Income and Expense from Financial Assets			
Loans and receivables			
Impairment		(19,573)	(40,819)
Net gain/(loss) loans and receivables		(19,573)	(40,819)
Net gain/(loss) from financial assets		(19,573)	(40,819)

The net expense from financial assets not at fair value from profit and loss is \$19,573 (2012: \$40,819).

Note 13C: Net Income and Expense from Financial Liabilities

The net income/expense from financial liabilities not at fair value from profit and loss is nil. (2012: nil).

Note 13D: Fair Value of Financial Instruments

The fair values of the financial instruments approximates their carrying amounts.

Note 13E: Credit Risk

The Office is exposed to minimal credit risk due to the nature of its financial assets. The maximum exposure to credit risk is the amount held as trade and other receivables should default occur, \$224,740. (2012: \$187,859). The risk of default on these amounts was assessed to be nil as at 30 June 2013 (2012: nil).

Ageing of financial assets that are past due can be found in note 5B.

Note 13F: Liquidity Risk

The Office's exposure to liquidity risk is minimal due to the appropriation funding mechanisms available from the Department of Finance and Deregulation. The office manages liquidity risk through its policies and procedures.

Maturities for non-derivative financial liabilities 2013

	On demand	within 1 year	1 to 2 years	2 to 5 years	> 5 years	Total
	\$	\$	\$	\$	\$	\$
Supplier payables	-	390,195	-	-	-	390,195
Total	-	390,195	-	-	-	390,195

Maturities for non-derivative financial liabilities 2012

	On demand	within 1 year	1 to 2 years	2 to 5 years	> 5 years	Total
	\$	\$	\$	\$	\$	\$
Supplier payables	-	829,859	-	-	-	829,859
Total	-	829,859	-	-	-	829,859

The office has no derivative financial liabilities in both the current and prior year.

Note 13G: Market Risk

The Office holds only basic financial instruments that do not pose any market risk. The Office is not exposed to currency risk or other price risk.

Note 14: Financial Assets Reconciliation

	Notes	2013 \$	2012 \$
<u>Financial Assets</u>			
Total financial assets as per the balance sheet		9,071,382	8,203,514
Less: non-financial instrument components:			
Appropriations receivable	5B	8,706,398	7,564,339
Other receivables	5B, 5C	54,005	203,208
Total non-financial instrument components		<u>8,760,403</u>	<u>7,767,547</u>
Total financial assets as per the financial instrument note		310,979	435,967

OFFICE OF THE COMMONWEALTH OMBUDSMAN
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2013

Note 15: Appropriations

Table A1: Annual Appropriations ("Recoverable GST exclusive")

	2013 Appropriations							Appropriation applied in 2013 (current and prior years) \$	Variance \$
	Appropriation Act		FMA Act						
	Annual Appropriation \$	Appropriations reduced ^(a) \$	AFM ^(b) \$	Section 30 \$	Section 31 \$	Section 32 \$	Total appropriation \$		
DEPARTMENTAL									
Ordinary annual services	18,914,000	-	-	15,259	2,607,058	-	21,536,317	20,556,127	980,190
Other services	-	-	-	-	-	-	-	-	-
Equity	-	-	-	-	-	-	-	-	-
Total departmental	18,914,000	-	-	15,259	2,607,058	-	21,536,317	20,556,127	980,190

Notes:

- (a) Appropriations reduced under Appropriation Acts (No. 1, 2, 5) 2012-13: sections 10, 11, and 12 and under Appropriation Acts (No. 2, 4, 6) 2012-13: sections 12, 13, and 14. Departmental appropriations do not lapse at financial year-end. However, the responsible Minister may decide that part or all of a departmental appropriation is not required and request that the Finance Minister reduce that appropriation. The reduction in the appropriation is effected by the Finance Minister's determination and is disallowable by Parliament. In 2012-13 there was no reduction in any appropriation.
- (b) Advance to the Finance Minister (AFM) - Appropriation Acts (Nos. 1, 3 & 5) 2012-13: reduction 13 and Appropriation Acts (Nos. 2, 4 & 6) 2012-13: section 15.
- (c) There was an \$89,000 reduction to Appropriation Act (No. 1) 2012-13 that met the recognition criteria of a formal reduction in revenue (in accordance with FMO Div 101) but at law the appropriations had not been amended before the end of the reporting period.
- (d) The variance of \$0.98m in ordinary annual services was primarily due to the office not achieving its departmental capital budget spend.

	2012 Appropriations							Appropriation (current and prior years) \$	Variance \$
	Appropriation Act			FMA Act					
	Annual Appropriation \$	Appropriations reduced ^(a) \$	AFM ^(b) \$	Section 30 \$	Section 31 \$	Section 32 \$	Total appropriation \$		
DEPARTMENTAL	20,757,000	-	-	111,944	2,494,339	-	23,463,283	22,397,582	1,070,701
Ordinary annual services									
Other services									
Equity									
Total departmental	20,757,000	-	-	111,944	2,504,330	-	23,463,283	25,000	(25,000)
								22,417,582	1,045,701

Notes:

- (a) Appropriations reduced under Appropriation Acts (No. 1, 2, 5) 2011-12: sections 10, 11, 12 and 15 and under Appropriation Acts (No. 2, 4, 6) 2011-12: sections 12, 13, 14 and 17. Departmental appropriations do not lapse at financial year-end. However, the responsible Minister may decide that part or all of a departmental appropriation is not required and request that the Finance Minister reduce that appropriation. The reduction in the appropriation is effected by the Finance Minister's determination and is disallowable by Parliament. In 2011-12 there was no reduction in any appropriation.
- (b) Advance to the Finance Minister (AFM) - Appropriation Acts (Nos. 1, 3 & 5) 2011-12: section 13 and Appropriation Acts (Nos. 2, 4 & 6) 2011-12: section 15.
- (c) There were no adjustments that met the recognition criteria of a formal addition or reduction in revenue (in accordance with FMO Div 101) but at law the appropriations had not been amended before the end of the reporting period.
- (d) The variance of \$1.05m in ordinary annual services was primarily due to the office not achieving its budgeted average staffing level.

Note 15: Appropriations

Table B: Departmental and Administered Capital Budgets (Recoverable GST exclusive)²

	2013 Capital Budget Appropriations				Capital Budget Appropriations applied in 2013 (current and prior years)			
	Appropriation Act		FMA Act		Total Capital Budget Appropriations	Payments for non-financial assets ³	Payments for other purposes	Total payments
	Annual Capital Budget	Appropriations reduced ²	Section 32					
DEPARTMENTAL Ordinary annual services - Departmental Capital Budget ¹	\$ 609,000	\$ -	\$ -	\$ -	\$ 609,000	\$ 448,000	\$ -	\$ 448,000
								\$ 161,000

Notes:

1. Departmental and Administered Capital Budgets are appropriated through Appropriation Acts (No.1,2,5). They form part of ordinary annual services, and are not separately identified in the Appropriation Acts. For more information on ordinary annual services appropriations, please see Table A: Annual appropriations.
2. Appropriations reduced under Appropriation Acts (No.1,2,5) 2012-13: sections 10, 11, 12 and 15 or via a determination by the Finance Minister.
3. Payments made on non-financial assets include purchases of assets, expenditure on assets which has been capitalised, costs incurred to make good an asset to its original condition, and the capital repayment component of finance leases.

	2012 Capital Budget Appropriations				Capital Budget Appropriations applied in 2012 (current and prior years)			
	Appropriation Act		FMA Act		Total Capital Budget Appropriations	Payments for non-financial assets ³	Payments for other purposes	Total payments
	Annual Capital Budget	Appropriations reduced ²	Section 32					
DEPARTMENTAL Ordinary annual services - Departmental Capital Budget ¹	\$ 759,000	\$ -	\$ -	\$ -	\$ 759,000	\$ 235,000	\$ -	\$ 235,000
								\$ 524,000

Notes:

1. Departmental and Administered Capital Budgets are appropriated through Appropriation Acts (No.1,2,5). They form part of ordinary annual services, and are not separately identified in the Appropriation Acts. For more information on ordinary annual services appropriations, please see Table A: Annual appropriations.
2. Appropriations reduced under Appropriation Acts (No.1,2,5) 2011-12: sections 10, 11, 12 and 15 or via a determination by the Finance Minister.
3. Payments made on non-financial assets include purchases of assets, expenditure on assets which has been capitalised, costs incurred to make good an asset to its original condition, and the capital repayment component of finance leases.

OFFICE OF THE COMMONWEALTH OMBUDSMAN
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2013

Note 15: Appropriations

Table C: Unspent Annual Appropriations (Recoverable GST exclusive)

Authority	2013	2012
	\$	\$
DEPARTMENTAL		
2010-11 Appropriation Act 1 - Departmental Capital Budget	-	148,000
2011-12 Appropriation Act 1	-	6,905,447
2011-12 Appropriation Act 1 - Departmental Capital Budget	459,000	759,000
2012-13 Appropriation Act 1	7,724,637	-
2012-13 Appropriation Act 1 - Departmental Capital Budget	609,000	-
Total	8,792,637	7,812,447

Note 16: Compensation and Debt Relief

	2013 \$	2012 \$
No 'Act of Grace' expenses were incurred during the reporting period. (2012: No expenses).	—	—
No waivers of amounts owing to the Australian Government were made pursuant to subsection 34(1) of the Financial Management and Accountability Act 1997. (2012: No waivers).	—	—
No payments were provided under the Compensation for Detriment caused by Defective Administration (CDDA) Scheme during the reporting period. (2012: No payments).	—	—
No ex-gratia payments were provided for during the reporting period. (2012: No payments).	—	—
No payments were provided in special circumstances relating to APS employment pursuant to section 73 of the Public Service Act 1999 (PS Act) during the reporting period. (2012: No payments).	—	—

Note 17: Reporting of Outcomes

Note 17A: Net Cost of Outcome Delivery

	Outcome 1	
	2013	2012
	\$	\$
Expenses		
Departmental	20,214,472	23,385,201
Total	20,214,472	23,385,201
Income from non-government sector		
Departmental		
Activities subject to cost recovery	-	-
Interest on cash deposits	-	-
Gain from disposal of asset	-	-
Reversal of previous asset write-downs	-	-
Goods and services income	1,016,633	1,065,297
Other	-	-
Total departmental	1,016,633	1,065,297
Total	1,016,633	1,065,297
Other own-source income		
Departmental	1,350,243	1,018,139
Total	1,350,243	1,018,139
Net cost of outcome delivery	17,847,596	21,301,765

Outcome 1 is described in Note 1.1. Net costs shown include intra-government costs that are eliminated in calculating the actual Budget Outcome. Refer to Outcome 1 Resourcing Table on page [page no.] of this Annual Report.

The Office has one outcome, therefore the Major Classes of Departmental Expense, Income, Assets and Liabilities by Outcomes table has not been prepared.

Note 18: Net Cash Appropriation Arrangements

	2013 \$	2012 \$
Total comprehensive income (loss) less depreciation/amortisation expenses previously funded through revenue appropriations ¹	1,160,024	(310,695)
Plus: depreciation/amortisations expenses previously funded through revenue appropriation	<u>(702,620)</u>	<u>(985,270)</u>
Total comprehensive income (loss) - as per the Statement of Comprehensive Income	<u>457,404</u>	<u>(1,295,965)</u>

1. From 2010-11 the Government introduced net cash appropriation arrangements, where revenue appropriations for depreciation/amortisation expenses ceased. Entities now receive a separate capital budget provided through equity appropriations. Capital budgets are to be appropriated in the period when cash payment for capital expenditure is required.





REFERENCES

References

Glossary

TERM	DEFINITION
Australian Federal Police (AFP) complaint categories	Category 1—minor management or customer service matters Category 2—minor misconduct Category 3—serious misconduct Category 4—conduct giving rise to a corruption issue.
Approach	A contact with the office about a new matter regarding one of our core business functions (usually classed as Category 1 and 2).
Category	Approaches are divided into five categories based on whether the approach is investigated or not, potential sensitivities and the degree of effort required to finalise the approach.
Category 1—Initial approach (approach)	An approach that was resolved by a single communication (e.g. referral to a more appropriate agency) and the discretion not to investigate was applied.
Category 2—Further assessment (approach)	An approach that required further communication and/or assessment (e.g. internal enquiries/research or more information from the complainant) and the discretion not to investigate was applied.
Category 3—Investigation (complaint)	An approach investigated via formal contact with the agency that is the subject of the complaint in order to resolve the matter.
Category 4—Further investigation (complaint)	An approach that required two or more substantive contacts with the agency that is the subject of the complaint in order to resolve the matter.
Category 5—Formal reports (complaint)	An approach where the matter complained about was identified as significant and an appropriate outcome could not be negotiated with the agency.

TERM	DEFINITION
Closed approach	An approach that has been finalised.
Community detention	A form of immigration detention that enables people in detention to reside and move about freely in the community without needing to be accompanied or restrained by an officer under the <i>Migration Act 1958</i> .
Compensation for Detriment caused by Defective Administration (CDDA) scheme	A scheme that allows Australian Government agencies under the <i>Financial Management and Accountability Act 1997</i> to provide discretionary compensation to people who have experienced detriment as a result of an agency's defective actions or inaction.
Compliance auditing	The action of inspecting the records of law enforcement agencies to determine the extent of compliance with relevant legislation by the agency and its law enforcement officers.
Complaint	An approach that has been escalated to Category 3 or above that was investigated and required agency contact to resolve the matter.
Controlled operation	A covert operation carried out by law enforcement officers under the <i>Crimes Act 1914</i> (Cth) for the purpose of obtaining evidence that may lead to the prosecution of a person for a serious offence. The operation may result in law enforcement officers engaging in conduct that would otherwise constitute an offence.
Cross-agency issue	At times a complaint or investigation may involve more than one agency if, for example, one agency is responsible for a policy for which another agency administers the related program/s.
Established complaint	The AFP considers a complaint is 'established' if an AFP investigation concludes in favour of the complainant or against the AFP member.
Formal powers	The Ombudsman's powers to investigate the administrative actions of most Australian Government departments and agencies and private contractors delivering government services. The powers of the Ombudsman are similar to those of a Royal Commission, and include compelling an agency to produce documents and examining witnesses under oath.

TERM	DEFINITION
Garnishee	The power to seize money from a third party (such as a bank) to pay a debt. This power is held by some government agencies, such as the Australian Taxation Office and Child Support.
Inspection (immigration)	Inspection visits to immigration detention facilities and other places of detention to monitor detention conditions and services provided to detainees. Inspections help to assess whether those services comply with the immigration values and obligations of the Department of Immigration and Citizenship and its contracted service providers.
Inspection (other)	Inspection or auditing of the records of law enforcement and other enforcement agencies in relation to the use of covert powers, such as telecommunications interceptions, stored communications, surveillance devices and controlled operations. This is one of the Ombudsman's statutory responsibilities.
Investigation	Occurs when the office formally contacts an agency about an issue raised as part of a complaint or because the Ombudsman has chosen to use her/his own motion powers.
Income management	A scheme that enables Centrelink to retain and manage at least 50% of a person's income support payments. The managed funds can only be allocated to priority goods and services, such as housing, clothing, food, utilities, education and health care. Managed funds cannot be used to purchase prohibited goods such as alcohol, gambling products, tobacco or pornography. The remaining portion of a person's income support is available for them to use as they wish.

TERM	DEFINITION
Jurisdiction	<p>Under the Ombudsman Act, the Commonwealth Ombudsman can investigate the administrative actions of Australian Government agencies and officers. The Act confers six other roles on the Commonwealth Ombudsman:</p> <ul style="list-style-type: none"> • Defence Force Ombudsman, to investigate action arising from the service of a member of the ADF • Immigration Ombudsman, to investigate action taken in relation to immigration (including immigration detention) • Postal Industry Ombudsman, to investigate complaints against private postal operators • Taxation Ombudsman, to investigate action taken by the Australian Taxation Office • Overseas Students Ombudsman, to investigate complaints from overseas students about private education providers in Australia • Law Enforcement Ombudsman, to investigate conduct and practices of the AFP and its members. <p>The Commonwealth Ombudsman also undertakes the role of the ACT Ombudsman in accordance with s 28 of the <i>ACT Self-Government (Consequential Provisions) Act 1988</i> (Cth).</p>
Natural justice	In administrative decision making, natural justice means procedural fairness.
Outcome	<i>Our Outcome: Fair and accountable administration by Australian Government agencies by investigating complaints, reviewing administrative action and inspecting statutory compliance by law enforcement agencies.</i>
Outcomes	The results, consequences or impacts of government actions.

TERM	DEFINITION
Outcome statements	<p>Statements that articulate government objectives and serve three main purposes within the financial framework:</p> <ol style="list-style-type: none"> 1. Explain the purposes for which annual appropriations are approved by the Parliament for use by agencies 2. Provide a basis for budgeting and reporting against the use of appropriated funds 3. Measure and assess agency and program non-financial performance in contributing to government policy objectives.
Out of jurisdiction (OOJ)	An approach about a matter that is outside the core business functions of the office.
Own motion investigation	An investigation conducted on the Ombudsman's own initiative.
Public interest disclosure	Sometimes referred to as 'whistleblowing', this occurs when a person discloses information that demonstrates improper conduct by a public body in the exercise of its functions.
Redress of grievance submission	A review by the Commanding Officer available to members of the Australian Defence Force if they are not satisfied with the outcome of the normal administrative processes. Before taking this step, Defence Force personnel are encouraged to first seek resolution of any complaint at the lowest possible level through the chain of command.
Remedy	A solution or correction to a problem that is the subject of a complaint.
Resolve	The name of the electronic case management system used by the Ombudsman's office.
Review rights	Rights a person has if they disagree with a decision made about them, or if they believe they have been treated unfairly by a government agency. They may appeal the decision or ask for it to be reviewed by the agency, and if they are not able to resolve the situation with the agency, they may complain to the Ombudsman.
Review (Ombudsman)	A review available to a complainant who disagrees with an Ombudsman decision. They can request the matter be reconsidered by a more senior officer within the office who was not involved in the original investigation.

TERM	DEFINITION
Stored communications	Typically refers to emails and text (SMS) messages but may include images or video that are electronically stored by a telecommunications carrier or internet service provider. (For instance, an SMS message is stored by a carrier and sent when the intended recipient is able to take the message.) Stored communications access occurs under warrant for the purposes of obtaining information relevant to the investigation of an offence.
Surveillance devices	Typically listening devices, cameras and tracking devices that are used to gather information relating to criminal investigations and the location and safe recovery of children. The use of these devices usually requires the issue of a warrant.
Systemic issue	A problem that is common throughout an agency or across multiple agencies, often identified through the analysis of similar individual complaints.
The office	The Office of the Commonwealth Ombudsman.
The Ombudsman	The person occupying the statutory position of Commonwealth Ombudsman.
Warm transfer	An assisted phone transfer to another agency. If complainants contact us with a complaint before first approaching the relevant agency, we have an arrangement in place with some agencies such as ATO and Centrelink to transfer them back to that agency. If their complaint is not resolved there, they can come back to us at that point.
Within jurisdiction	An approach about a matter that the office can investigate.

Abbreviations and acronyms

ACC	Australian Crime Commission
ACLEI	Australian Commission for Law Enforcement Integrity
AFP	Australian Federal Police
APS	Australian Public Service
ASQA	Australian Skills Quality Authority
ATO	Australian Taxation Office
AUSTRAC	Australian Transaction Reports and Analysis Centre
DEEWR	Department of Education, Employment and Workplace Relations
DHS	Department of Human Services
DIAC	Department of Immigration and Citizenship
DIISRTE	Department of Innovation, Industry, Science, Research and Tertiary Education
DOHA	Department of Health and Ageing
DSP	Disability Support Pension
EL	Executive Level
ESOS	Education Services for Overseas Students
FaHCSIA	Department of Families, Housing, Community Services and Indigenous Affairs
FOI	freedom of information
IM	Income Management
NT	Northern Territory
ORI	Ombudsmen of the Republic of Indonesia
PID Act	Public Interest Disclosure Act
PNG	Papua New Guinea
POA	Pacific Ombudsman Alliance
RAAF	Royal Australian Air Force
SES	Senior Executive Service
WHS	work and health safety
WHSO	Work and Health Safety Officer

List of figures and tables

Figures

Figure 1.1: Executive and Senior Management structure at 30 June 2013	4
Figure 2.1: Approach and complaint trends, 2006–07 to 2012–13	10
Figure 4.1: Number of complaints and approaches about Centrelink from 2006–07 to 2012–13	39
Figure 4.2: Number of complaints and approaches about Child Support from 2006–07 to 2012–13	50
Figure 4.3: Number of complaints and approaches about the Department of Immigration and Citizenship from 2005–06 to 2012–13	59
Figure 7.1: Australia Post complaint themes 2012–13	106

Tables

Table 2.1: Approach and complaint trends, 2006–07 to 2012–13	11
Table 3.1: Staffing profile by gender, APS classification and salary range at 30 June 2013	29
Table 3.2: Staffing profile by location at 30 June 2013	30
Table 3.3: Staffing profile showing part-time employees by location at 30 June 2013	30
Table 3.4: Staffing profile showing part-time employees by classification at 30 June 2013	30
Table 3.5: Staffing profile showing staff separations by classification at 30 June 2013	30
Table 3.6: Expenditure on consultancy contracts 2010–11 to 2012–13	35
Table 7.1: Immigration detention facilities visited in 2012–13	101
Table 7.2: Complaint trends 2006–07 to 2012–13	105

Compliance index

This is a guide to the report's compliance with the *Requirements for Annual Reports* as approved by the Joint committee of Public Accounts and Audit under subsections 63(2) and 70(2) of the *Public Service Act 1999*.

Letter of transmittal	iii
Table of contents	vi–vii
Index	188–203
Glossary	178–183
Contact officer	v, 204
Internet home page address and internet address for report	v

Ombudsman's review

Review by departmental secretary	viii–x
Summary of significant issues and developments	viii–x
Overview of performance and financial results	33
Outlook for 2012–13	viii–x

Organisational overview

Role and functions	2
Organisational structure	4
Outcome and program structure	8
Variation of outcome and output structure from Portfolio Budget Statements	N/A

Report on performance

Review of performance in relation to outputs and contribution to outcomes	8–17
Actual performance in relation to deliverables and KPIs set out in PBS/PAES or other portfolio statements	8–17
Performance of purchaser/provider arrangements	35
Changes in performance targets, and reasons for the change	N/A
Discussion and analysis of performance	8–17
Trend information	9–11
Significant changes in nature of principal functions/services	N/A
Factors, events or trends influencing organisational performance	N/A
Contribution of risk management in achieving objectives	22–23
Social inclusion outcomes	38–54
Performance against Service Charter customer service standards, complaint data and response to complaints	9–12, 14
Discussion and analysis of the organisation's financial performance	33–34
Discussion of any significant changes from the prior year or from budget	N/A
Resource statement and summary resource tables by outcomes	132–133
Developments since the end of the financial year	N/A

Management and accountability

Corporate governance

Corporate governance practices in place	20–35
Senior Executive and their responsibilities	20–22

Senior Management Committees and their roles	22
Corporate and operational planning and associated performance reporting and review	20–35
Approach adopted to identifying areas of significant financial or operational risk	23
Compliance with Commonwealth Fraud Control Guidelines	24
Policy and practices on the establishment and maintenance of appropriate ethical standards	25
Determination of remuneration for SES officers	28

External scrutiny

Significant developments in external scrutiny	26–27
Judicial decisions and decisions of administrative tribunals	27
Reports by the Auditor-General or parliamentary committees	N/A

Management of human resources

Assessment of effectiveness in managing and developing human resources to achieve departmental objectives	31
Workforce planning, staff turnover and retention	28
Impact and features of collective agreements, determinations and Australian Workplace Agreements	27–28
Training and development undertaken and its impact	31
Occupational health and safety performance	31–32
Productivity gains	33–34
Statistics on staffing	29–30
Collective agreements, determinations and Australian Workplace Agreements	27
Performance pay	28

Financial performance

Assets management	34
Assessment of purchasing against core policies and principles	35
Consultants	35
Absence of provisions in contracts allowing access by the Auditor-General	35
Contracts exempt from AusTender	35
Financial statements	134–175

Other

Work health and safety	23, 31
Freedom of information statements	126
Advertising and market research	35
Ecologically sustainable development and environmental performance	26
Compliance with agency's obligations under the <i>Carer Recognition Act 2010</i>	N/A
Grant programs	35
Disability reporting – explicit and transparent reference to agency-level information available through other reporting mechanisms	32
Information Publication Scheme statement	126
Spatial reporting	N/A
Agency resource statements and resources for outcomes	132–133

Correction of material errors in previous annual report

No material errors have been identified in the Commonwealth Ombudsman *Annual Report 2011–12*

Index

A

accessibility of services, 12, 25, 40–1, 41–2, 47, 48, 66, 72, 77, 83, 107

accidents or injuries, 31

accountability, 20–35

ACT Government, services agreement, 3

ACT Ombudsman role, 3, 21

ACT Self-Government (Consequential Provisions) Act 1988 (Cth), 3

administration, improving, ix, 3, 16

Administrative Appeals Tribunal, 70

AFP Association, 13

AFP Professional Standards, 13

agencies, Australian Government, 37–63

- acceptance of Ombudsman recommendations, 16, 44, 53, 107, 108
- administrative deficiency or error, 53, 60, 61
- administration issues, 41, 43, 44–6, 49, 53, 56, 63, 67, 68, 69
- approaches and complaints received about, 129–30
- automated system decisions, 72–4
- case studies, 65–84
- communication and advice to the public, 78–9
- complaint prevention strategies, ix
- complexity, 77–8
- consistency, 79–80
- contractors working on behalf of, 3, 15, 60, 61–2, 89, 99, 100, 102
- cross-agency issues, 42, 43, 75–7, 84, 111–12

customer service, 66, 78

difficult/unresolved cases, 75

face-to-face services, 42, 72

highest number of approaches and complaints, 39

internal complaint-handling, 17, 59, 81, 83, 95, 110, 112

internal complaint-handling, improving, viii, ix, 17, 40, 52, 112

liaison/meetings with, ix, 13, 49, 54, 55, 60, 98, 103, 109, 113

procedures, 17, 46, 53, 63, 69, 72, 76, 79, 89, 96, 108–9

recommendations, 13, 14, 15, 16, 17, 44, 89, 98, 102

record keeping, 15, 16, 42, 44, 72, 75

remedies, individual, 66–70

remedies, systemic, 70–2

reports and submissions, 46, 63

service delivery, 66

statistics, 128–9

systemic issues, ix, x, 9, 11, 14–15, 17, 22, 41, 49, 60, 67, 70, 77, 98, 105, 111

timeliness issues, 45, 70, 76–7, 79, 83, 95, 102, 110

training, 13

‘warm transfers’, 17, 40–1, 52, 59

see *also* complaints; investigations; name of agency; statistics

aircraft noise, ix, 34, 95

APS Statistical Bulletin, 32

Asia Pacific Region, 94, 114

asylum seekers

- see immigration detention

Attorney-General, reports to, 98, 99

Attorney-General's Department, 119
 feedback on inspections, 98
 statistics, 129
 Audit Committee, Internal, 23, 24
 audit report, independent, 135–6
 AusAID, 21, 34, 114, 115, 116, 117, 118, 119
 AusTender, 35
 Australia and New Zealand School of Government, 14
 Australia Post, 3, 17, 21, 54, 106–9
 accessibility/quality of information provided to the public, 107
 case studies, 68, 70–1, 82
 compensation, 68, 71
 complaint themes, 106
 contractor issues, 71
 disputed delivery signatures, 108
 eParcel delivery, 70–1
 fees charged for investigations, 105
 forecast, 108–9
 internal complaint handling, 105, 106, 109
 International Post Guide, 107
 investigations, 68, 70, 71, 82, 104–5, 107
 mail redirections, unauthorised, 108
 non-postal services, 103
 number of complaints received, 104
 parcel delivery, 68
 Parcel Post Guide, 107
 procedures, 71, 108–9
 proportion of approaches and complaints, 38, 104
 redirection failure, 82

remedies, 68, 71, 82
 'second chance' transfer scheme, 104, 109
 Security Investigation Group, 108
 staff training, 105
 timeliness in finalising investigated complaints about, 105
 see also Postal Industry Ombudsman
 Australian Commission for Law Enforcement Integrity (ACLEI)
 records inspections, 97
 Australian Council for Private Education and Training, 13, 113
 Australian Council of Social Services
 conference, 49
 Australian Crime Commission (ACC)
 records inspection reports, 88
 records inspections, 2, 97
 Australian Customs and Border Protection Service, records inspections, 97
 Australian Defence Force, 3, 21, 95
 Defence Abuse Response Taskforce, 95
 number of complaints, 95
 redress of grievance processes, 95
 Australian Education International, Policy Briefing, 113
 Australian Federal Police (AFP), 3, 96
 AFP Professional Standards, 13
 complaint-handling, annual review of, 13, 17, 96
 controlled operations, 88, 97, 98, 99
 liaison, 96
 number of complaints, 11
 Ombudsman oversight role, 96–9
 records inspection, 2, 13, 97

records inspection reports, 88

Australian Federal Police Act 1979, 13, 17, 96

Part V reviews by Ombudsman, 96

Australian Hearing, 38

Australian Human Rights Commission, 13, 27

discrimination complaints, 110

Australian Information Commissioner Act 2010, review, 90

Australian Institute of Administrative Law, 14

Australian National Audit Office, 23, 134

Independent audit report, 135–6

Australian Postal Corporation Act 1989, 106

Australian Public Service Commission

State of the Service report, 32

Australian Public Service Values and Code of Conduct, 25

Australian Public Service Values and Employment Principles, 25

Australian Red Cross, 13

Australian Securities and Investment Commission, 57

Australian Security Intelligence Organisation, 103

Australian Skills Quality Authority (ASQA), 14, 81, 83, 110, 111, 112

Australian Taxation Office, 3, 15, 17, 42, 54–8, 90, 103

administration issues, 56, 69

audit issues, 79

case studies, 69, 77, 79

Centrelink issues, 42, 73, 76, 84

Child Support issues, 42

communication, 55, 57, 58, 78

complaint themes, 55–7

computer system operating upgrade, 58

cross-agency issues, 76

debt recovery, 56, 69

director liability, 57

e-tax lodgement, 58

income tax refund delays, 55

Income Tax Refund Integrity program, 55, 58

investigations, 57

liaison with, 103

number of complaints received, 55, 103

online service, 56–7

procedures, 72

proportion of approaches and complaints, 38

records, 72

remedies, 69, 72, 77, 79

superannuation, 57, 72

tax assessment error, 69

tax file number registration system, 58

tax return assessment delay, 77

tax return lodgement, 58, 67

Australian Transaction and Reports Analysis Centre (AUSTRAC), 118

Australian Workplace Agreements, 27

B

Best practice complaints handling guide for education providers, 112

Better Practice Guide to Complaint Handling, 25

Brisbane Immigration Transit Accommodation, 62, 101

budget

see finance and financial management

business planning, 24, 31

Business Continuity Plan, 25

C

Caribbean Ombudsman, 117

case studies, 65–84

Centrelink, 17, 21, 39–49

accessibility of services, 40–1, 41–2, 47

administration issues, 41, 43, 44–6, 49, 67, 68

ATO issues, 42, 73, 76, 84

Authorised Review Officers, 44

case studies, 67, 68, 70, 72, 73, 75–6, 76–7, 78

communication, 78

compensation, 78

complaint themes, 39, 41, 44

computer system, 73, 74

correspondence, 39, 42, 45

cross-agency issues, 42, 43, 75–6

data transfer, 42, 73, 75, 76

debt recovery, 42, 48, 67, 68, 73, 74, 78, 84

debt waiver, 67, 68

delays in processing, 41

DHS Feedback and Complaints line, 40

disability support pension, 68, 78

emergency payment, 77, 84

face-to-face services, 42, 83

Family Tax Benefit, 42, 43, 67, 73, 74, 76, 77–8, 78–9, 83–4

income management, 43–6

integration into DHS, 39

investigations, 41, 42, 43, 76, 78

Newstart Allowance, 84

number of complaints received, 38, 39

parenting payment, 76–7

procedures, 46, 76, 89

processes, 46, 89

proportion of approaches and complaints, 38

‘reasonable maintenance action test’, 43

record keeping, 42, 44, 75

remedies, 67, 68, 70, 74, 76, 77, 78, 79, 84, 89

reviews of decisions, delays, 41

Schoollkids Bonus, 84

service delivery, 41, 46

service restriction, 41–2

systemic issues, 41, 49, 70

telephone calls, 40

telephone lines wait times, 41

unreasonable complainants, 42

vulnerable clients, 16, 43, 44, 47,

‘warm transfer’ process, 40–1, 83–4

Youth Allowance complaint/report, 16, 46, 75–6, 89

see also Department of Human Services

Centrepay scheme, 15, 46, 47

review into, 46n, 47, 90

Chief Executive Instructions, 35

Child Support National Stakeholder Engagement Group, 49

Child Support, 21, 42, 50–4

administration issues, 53

ATO issues, 42

care percentages, 42, 73

case studies, 73, 74, 78–9

Centrelink issues, 42, 43, 74
 compensation claims, 53–4
 complainants, 51, 52
 complaint themes, 50
 computer system, 53, 73
 cross-agency issues, 42, 73, 75–6, 76
 data integrity issue, 73
 data transfer, 42, 51, 73
 internal complaint process, 51, 52
 investigations, 52, 53
 number of complaints received, 50
 overpayments, 52–3
 overseas cases, 52
 procedures, 53
 proportion of approaches and complaints, 38
 proportion of complaints by payers, 51
 record keeping, 42, 73
 reduction in complaints, 51
 remedies, 73
 telephone system, 51
 ‘warm transfer’ process, 52
 ‘write only’ access,
 see *also* Department of Human Services
 Children’s Commissioner, 13
 Christmas Island, 34, 62, 63, 89
 Closing the Gap, 94
 Code of Conduct, 25
 coercive powers, 13, 17, 99
 Comcover Risk Management Benchmarking Survey, 24
 Commonwealth Disability Strategy, 32
 Commonwealth Procurement Rules, 35

Commonwealth Rehabilitation Service (CRS), 38
 community education/consultation, 13–14, 95, 96, 112–13
 Indigenous, 48
 compensation
 Australia Post, 71, 107, 108
 Centrelink, 78
 Child Support, 53–4
 Medicare, 70
 Compensation for Detriment caused by Defective Administration scheme, 54, 70, 78, 95
 complainants, ix, 3, 9, 10, 12, 17, 40–1, 51, 55, 109
 unreasonable, 42
 complaint handling processes
 internal review, 25
 organisational restructure, 12, 14, 22
 timeliness, viii, 12
 complaints, approaches and
 categories of, 178
 common issues/themes, 39, 50, 55–7, 60, 106, 110–11
 electronic lodgement, 11
 finalised, 11
 investigations, 2, 11, 128
 method of receipt, 11
 not investigated, 128
 open at end of year, 11
 outside jurisdiction, viii, 9–10, 130
 received, viii, 9–10
 received, by agency, 128–9
 reduction, viii, 9, 39, 51
 remedies, 129, 130

- requests for review of decisions, 12–13
- statistics, 129–30
- trends, 10–11
- see also case studies; investigations; name of agency
- compliance audits, 3, 16
 - see also inspections of records
- conferences, 13, 14, 49, 113, 115, 116–17
 - see also Presentations by staff
- contact details, v, 200
- contractors and consultancies, 35
 - ANAO audit clause, 35
 - expenditure, 35
 - reduction in costs, 33
 - working on behalf of government agencies, 60, 61–2, 75, 80–1
- controlled operations
 - inspection reports, viii, 88, 99
 - number of inspections, 98
 - records inspections, 97
- Cook Islands Ombudsman, 116
- corporate governance, 22, 24
- Council of International Students Australia, 14
 - conference, 13, 113
- Courts, 26–7
- covert powers of law enforcement agencies, 16, 17, 94
- Crimes Act 1914*, 16
- cross-agency issues, 42, 43, 75–7, 84, 111–12
- Curtin Immigration Detention Centre, 62, 63, 101
- customer service/satisfaction, 9, 11–12,

D

- Darwin detention facility, 62, 63, 71–2
- debt recovery, 42, 48, 56, 67, 68, 69, 73, 74, 78, 82, 84
- Defence Abuse Response Taskforce, 95
 - transfer of matters from Review of Allegations of Sexual and other Abuse in Defence, 95
- Defence Force Ombudsman, 3, 94, 95
 - complaint themes, 95
 - number of complaints received, 95
 - outreach and stakeholder engagement activities, 95
 - redress of grievance complaints, 95
- Defence Housing Australia, 21, 95
- deliverables, 9, 11–16
- Department of Agriculture, Fisheries and Forestry, 129
- Department of Broadband, Communications and the Digital Economy, 129
- Department of Defence, 21, 95
 - case study, 67
 - complaint handling, internal review, 95
 - statistics, 129
- Department of Education, Employment and Workplace Relations (DEEWR), 76
 - case study, 90
 - Ombudsman report into administration of student refunds under the ESOS Act, 16, 88, 89–90
 - statistics, 129
- Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA), 14, 15, 44, 46, 48
 - statistics, 129

Department of Finance and Deregulation, 35, 54

- statistics, 129

Department of Foreign Affairs and Trade, 129

Department of Health and Ageing, 75

- statistics, 129

Department of Human Services (DHS), 16, 21, 38–54

- alignment of care process, 73
- Care Review project, 42, 51
- case studies, 69–70
- Centrelink, Child Support and Medicare integration, 39, 51
- Centrepay Scheme, 15, 46, 46n, 47
- computer systems, separate, 42
- Consumer Consultative Group, 49
- Feedback and Complaints line, 40
- Housing Payment Deduction Scheme, 46, 48
- number of complaints received, 38, 129
- Service Delivery Advisory Groups, 49
- statistics, 129
- ‘warm transfers’, 83
- see *also* Australian Hearing; Centrelink; Child Support; Commonwealth Rehabilitation Service (CRS)

Department of Immigration and Citizenship (DIAC), 14, 15, 16, 17, 59–63, 111

- administration issues, 63
- Bridging Visas, 62, 100, 103
- case studies, 75, 77, 79–80, 81–2
- citizenship, 77, 80
- complaint themes, 60

- compliance and removal activities, 63
- deficient advice, 61
- delays, 77
- Global Feedback Unit, 59, 60, 61
- identity issue, 79–80
- internal complaint system, 59
- investigations, 59–60
- Issues of Interest register, 60
- liaison, 60
- non-government service providers, 60, 61–2
- number of complaints received, 59
- Ombudsman Human Rights Coordination Section, 60
- Ombudsman reports, 88
- Partner Visas, 81
- procedures, 63
- processing delays, 60
- proportion of approaches and complaints, 38
- record keeping, 75–6
- remedies, 72, 79, 80, 82
- reports, 2, 15, 88–9, 102
- reports to Ombudsman, 102
- settlement services, 82
- statistics, 130
- Student Visas, 80, 111, 112
- systemic issues, 60
- visas, 60, 79–80, 81, 100
- ‘warm transfer’ process, 59
- see *also* immigration detention; Overseas Students Ombudsman

Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education (DIISRTE), 14, 111

statistics, 130

Department of Industry, Innovation, Science, Research and Tertiary Education (DIISRTE), Ombudsman report into administration of student refunds under the ESOS Act, 16, 88, 89

statistics, 130

Department of Infrastructure and Transport, 130

Department of Prime Minister and Cabinet, 121, 130

Department of Regional Australia, Local Government, Arts and Sport, 130

Department of Resources, Energy and Tourism, 130

Department of Sustainability, Environment, Water, Population and Communities, 130

Department of Veterans' Affairs, 21, 95

disability reporting, 32

Disability Support Pension, 68, 78

Disaster Recovery Plan, 25

DLA Piper, 95

E

Early Release of Superannuation Benefits on Compassionate Grounds Program, 38, 54

ecological sustainability, 26

education roundtable, international, 90, 112

Education Services for Overseas Students (ESOS) Act 2000, 16, 89, 109, 112

education, community, 13–14

energy consumption/efficiency, 26

English Australia conference, 13, 113

enquiries

see complaints, approaches and

Enterprise Agreement 2011–2014, 27–8, 33, 34

Environment Protection and Biodiversity Conservation Act 1999, 26

Environmental Management Policy, 26

Ethical Leadership Congress, 14

ethical standards, 25

external scrutiny, 26–7

F

Fair Work (Building Industry) Act 2012, 17, 34, 99

Fair Work Building and Construction

inspection reports, 17, 88

review of examination powers, 34, 98

Family Court, 57

Family Tax Benefit, 42, 43, 67, 73, 74, 76, 77–8, 83–4

Federal Court, 26

Federal Magistrates Court, 27

finance and financial management, 33–4

assets, 34

Efficiency Dividend, 34

Efficiency Measure, 33

employee benefits decrease, 33

expenses, 33–4, 133

financial statements, 134–75

income, 34

international program, debt write off, 34

liabilities, 34

operating surplus, 33

resource statement, 132

resources summary, 133

supplier expense reduction, 33

Financial Management and Accountability Act
1997, 23

fraud control, 24

Freedom of Information Act 1982, 22, 27

review, 90

G

glossary, 178–83

grant programs, 35

guide to the report, iv–v

H

health and safety, 31–2

Homeless Persons' Legal Clinic, 14

homelessness, 46, 48, 78, 84, 89

Housing Payment Deduction Scheme, 15,
46, 48

human resources, 27–33

see also staff

I

immigration detention

abridged reports to Minister for
Immigration, 102

administrative processes, 63

adverse security clearance, 103

amenities at facilities, 62, 62–3

Bridging Visas, 62, 100, 102, 103

Christmas Island, 34, 62, 63, 89

common themes, 60

complaint handling, review, 15

detainees held for two years or more, 2,
15, 89, 102

Enhanced Screening Process, 62

female detainees, clothing, 71

incident reporting, 61–2

inspections visits, 62–3, 100–1

maritime arrivals, 62, 100

mental health of detainees, 102, 103

minors, 63

'no advantage principle', 100

non-government service providers, 61–2

number of people in detention, 100

number of people in detention two years
or more, 89, 102

overcrowding, 62

oversight role, 2, 99

personal property of detainees, 15, 62

procedures, 63

proportion of complaints about DIAC, 59

Protection Visas, 100, 102

record keeping, 15

report into suicide and self-harm, 16, 61,
63, 88, 89, 103

reports, 15

reports from DIAC to Ombudsman, 102

reports to Minister for Immigration and
Citizenship, 2, 15, 88–9, 102

Residential Determinations, 62

systemic issues, 60

time detainees held in detention, average,
100

training of staff, 13

- transport processes and procedures, 63
- visits to facilities, 101
- see also Department of Immigration and Citizenship; Immigration Ombudsman
- Immigration Ombudsman, 3, 13, 21, 94, 99–103
 - role, 2, 99
 - see also Department of Immigration and Citizenship (DIAC); immigration detention
- income management, 43–6
- Independent Competition and Regulatory Commission, 14
- Indigenous Australians, ix, 48–9, 94
 - accessible complaint services for, 48, 49
 - aged care, remote communities, 75
 - case studies, 75
 - Closing the Gap, 94
 - communication, 48–9
 - improving complaint services, 48
 - income management, 43–5
 - interpreters, 44
 - non-government organisations, 14
 - rent collection, remote communities, 44–5
- Individual Flexibility Agreements, 27
- Indonesia, Ombudsmen of the Republic of Indonesia (ORI), 118
- Information Commissioner, 27
- Information Publication Scheme (IPS), 126
- information technology
 - Australia Post, 109
 - Australian Taxation Office, 55, 58
 - Centrelink, 73, 74
 - Child Support, 53, 73
 - Department of Human Services, 42
 - Ombudsman compliance, Web Content Accessibility Guidelines, 25
 - Ombudsman support to Solomon Islands, 119
- inspections of records, 2
 - compliance issues, communicating to agencies, 98–9
 - controlled operations records, 16, 88, 97
 - covert powers, 16, 17, 99
 - examinations conducted by Director of Fair Work Building and Construction, 88
 - independent oversight process, 96–8
 - number of, 98, 99
 - outcomes reported to agencies, 98, 98–9
 - reports to Ministers and Parliament, 17, 89
 - statutory role, 2
 - surveillance devices records, 16, 88, 97
 - telecommunications interceptions, 16, 97, 98
 - timeliness of reports, 17
- Inspector-General Intelligence and Security, 120
- internal audit, 23
- international activities, 94, 113, 114–19
- International Labour Organization Convention 169 – Indigenous and Tribal Peoples, 119
- International Ombudsman Institute general conference, 115
- International Ombudsman World conference, 116
- interpreters, 44, 69–70
- investigations, 2, 11, 67, 70, 71, 82, 104–5, 107
 - errors or deficiency identified, 67, 68

- guiding principle, 2–3
- published reports, 46, 88, 89
- reasons for not undertaking, 104, 110
- reviews of, 12
- statistics, 129–30
- statutory role, 2
- substantial, 11
- see *also* own motion investigations; name of agency

J

- Joint Committee of Public Accounts and Audit, 54, 90, 103
- Joint Committee on International Education, 113
- judicial decisions, 27
- Justice and Pro Bono Conference, 14

K

- key performance indicators, 9, 16–17
- Kiribati, 116

L

- Latin America, 114, 120
- Law Enforcement Ombudsman, 3, 13, 94, 96
 - oversight process, 97–8
 - stakeholder engagement, outreach and education activities, 96
- letter of transmittal, iii
- litigation, 26–7

M

- management and accountability, 19–35
- management committees, 22
- Maribyrnong Immigration Detention Centre, 101
- Marshall Islands, 115
- Medicare, 21
 - case studies, 69–70, 72, 83
 - claim processes, 72
 - Enhanced Primary Care Scheme, 69
 - investigations, 69, 72, 82
 - procedures, 69
 - record keeping, 42, 72
 - remedies, 69, 70, 72, 82
 - see *also* Department of Human Services
- Memoranda of Understanding (current, or being developed), 75
 - Office of the Fair Work Building Industry Inspectorate, 34
 - RAAF, 34
 - Solomon Islands Ombudsman's Office, 118
 - Tertiary Education Quality Standards Agency, 112
- mental health, 32, 82, 84, 102, 103
- Migration Act 1958*, 2, 15, 63, 88, 102, 103
- Migration Review Tribunal, 112
- Minister for Defence, 95
- Minister for Home Affairs, reports to, 98, 99
- Minister for Immigration and Citizenship, 2, 15, 102
- Multicultural Plan, 33

N

National Aboriginal Community Controlled Health Organisation, 49

National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007, 109–10

National Congress of Australia's First Peoples, 49

National Disability Strategy, 32

National Security Legislation, Inquiry into Potential Reforms, submission, 90, 98

National Welfare Rights Network, 48

New South Wales Ombudsman, 116, 118

New South Wales Police, 88

New Zealand, 115, 117

Newstart Allowance, 84

Nieu, Leadership Workshop, 115

non-government service providers, 60, 61–2, 75, 80

Norfolk Island Ombudsman, 3, 21

 complaints received, 120, 130

North Australian Aboriginal Justice Agency, 48

Northern Immigration Detention Centre, 101

North West Point Immigration Detention Centre, 101

Northern Territory

 income management, 43, 45

 outreach visits, 48

 Territory Housing, 44–5

 Welfare Rights Agency, 45

Northern Territory Emergency Response (NTER), 34, 94

 systemic issues,

Northern Territory Ombudsman, 4

NSW Aboriginal land Council, 119

NSW Minerals Council, 119

NSW Ombudsman University Complaint Handling forum, 113

O

objectives, deliverables and key performance indicators, 8–9

Occupational Health and Safety Committee, 31

Office of the Australian Information Commissioner, 27, 76

Office of the Fair Work Building Industry Inspectorate, 34, 89

 review of coercive examination powers, 97

Ombudsman

 appointment, 20

 Deputy, 4

 functions, 2–3, 94–5

 international role, 114–20

 jurisdiction, 2, 50, 95, 103, 109

 overview, viii–x

 presentations, 128

 public interest disclosure role, 121–2

 remuneration, 21

 Senior Assistant, 4, 14, 20–2

 specialist roles, 3, 93–114

 statutory responsibilities, 2

Ombudsman Act 1989 (ACT), 3

Ombudsman Act 1976, iii, 3, 109, 110, 112, 120

Ombudsman Act 2012 (Norfolk Island), x, 3, 119

Ombudsman's office

 Community Services and Legal, 4, 14, 21, 49

 contact details, v, 200

- Corporate Services, 4, 21
- Executive and Public Contact Team, ix
- Immigration and Overseas Students, 4, 21
- internal complaints and reviews process, 14, 25
- Justice, Finance and Territories, 4, 21
- Operations Branch, viii, 4, 12, 20, 22
- organisational structure, 3
- record keeping, 14
- restructure, viii, 12
- role and functions, 2, 8–9
- senior management and responsibilities, 21–2, 23
- senior management roles, changes, viii
- senior management structure, 4
- state and territory offices, 4, 200
- telephone query and auto-attendant messaging system, viii–ix, 9, 10, 11, 12
- work practices, 22, 23
- workload, viii, ix
- see also* staff
- organisation chart, 4
- organisational restructure, viii, 12, 14, 22, 33
- outcome and program structure, iv, 8
- Outcome, 8, 133
- outreach, 13–14, 95, 96
- overseas students
 - education providers, 80–1, 83, 90, 109, 110, 112
 - poor attendance, 83, 110, 112
 - refunds of course fees, 80, 81, 89–90, 110–11
 - reporting students to DIAC, 83, 110, 112
 - transfer to another education provider, 80, 110
 - visas, 80, 111, 112
- Overseas Students Health Cover, 111
- Overseas Students Ombudsman, 3, 13–14, 21, 94, 109–14
 - attendance at conferences, 113
 - case studies, 80–1
 - complaint themes, 110–11
 - cross-agency issues, 111–12
 - forecast, 114
 - investigations, 80, 81, 110
 - issues paper on health insurance premiums, 111
 - liaison with government agencies and other bodies, 113–14
 - number of complaints received, 109, 110
 - possible breaches of ESOS Act, 112
 - provider e-newsletter, 113
 - providers' internal complaint processes, 83, 110, 112
 - refuse a transfer to another provider, 80, 110
 - report on complaint about refund, 16–17, 89–90
 - role, 109
 - stakeholder engagement and outreach, 13–14, 112–13
 - statistics, 111, 130
 - student attendance requirements, 83, 110, 112
 - student newsletter, 113, 114
 - systemic issues, 111
 - submissions, 112

- transfer of complaints to other authorities, 110–11
- own motion investigations and reports, 2
 - Centrelink service delivery, 14, 41
 - number of reports, 14

P

- Pacific Ombudsman Alliance (POA), 114–16
 - Ombudsmen world conference, 116–17
- Papua New Guinea, Twinning program, 117
- Parliamentary inquiries, submissions, 15–16
- performance, 7–17
 - key performance indicators, 9, 16–17
 - see also finance and financial management
- Personal Information Digest, 27
- Perth Immigration Detention Centre, 101
- Peru, Defensoria del Pueblo, 119–20
- Federation of Ibero–American Ombudsmen meeting, 119
- Portfolio Additional Estimates Statements, 8
- Portfolio Budget Statements, 8, 88
- Postal Industry Ombudsman, 3, 54, 94, 103–6
 - additional reporting, 131
 - fee structure for investigations, 103–4
 - restructure of function, 104
 - see also Australia Post
- postal operators, private, 103
- presentations by Ombudsman/Acting Ombudsman, 14, 128
- presentations by staff, 13–14, 127–8
- PricewaterhouseCoopers, 23
- Privacy Act 1988*, 27

- procurement, 35
- Public Housing Tenants Support Bill 2013, 15, 46, 48, 90
- Public Interest Disclosure Act, 121
 - role of Ombudsman, 121–2
- Public Interest Disclosure Bill, ix, 90, 121
- Public Interest Disclosure Scheme, ix, 121–2
- Public Service Act 1999*, iii, 4, 27
- purchasing, 35

R

- RAAF Memorandum of Understanding, 34
- Reconciliation Australia, 119
- record keeping
 - government agencies, 15, 16, 42, 44, 72, 75
 - Ombudsman, 14
 - see also inspections of records
- recycling, 26
- Regional Assistance Mission to the Solomon Islands (RAMSI), 118
- reports
 - automated systems, 72
 - Centrelink, administration of youth allowance, 46, 88, 89
 - Centrelink, income management, 43–4
 - controlled operations, 88
 - DEEWR/DIISTRE, student refunds administration, 88, 89
 - Fair Work Building and Construction, 17, 88, 99
 - immigration detention, post-visit, 15
 - immigration detention, detainees held for two or more years, 15, 89, 102

immigration detention, suicide and self-harm, 16, 61, 63, 88, 89, 103

inspections, 17, 88, 99

own motion, 2, 14

published, 46, 88–90, 99, 102

records inspections, 88

summaries of published, 89–90

see also submissions

resource statement, 132

resources summary, 133

restructure, organisational, viii, 12

review of decisions, 12–13

 number of requests for, 12

Rio Tinto, 119

risk management, 24

Royal Australian Air Force (RAAF), 34

S

Samoa, Ombudsman of, 115

Scherger Immigration Detention Centre, 62, 63, 101, 128

service charter, 25

see also work practice working groups

Small Business Superannuation Clearing House, 38

Social Inclusion Measurement and Reporting Strategy, 32

Solomon Islands, 118–19

 Leadership Code Commission, 115

 Ombudsman, 118

 RAMSI, 118

 South Australian Training Advocate, 109, 114

staff, 27–33

 average staffing level, 28, 33

career development, 31

Employee Assistance Program, 32

health and safety, 23, 31–2

induction program, 31

learning and development, 31

performance pay, 28

presentations by, 127–8

profile, 28–30

reduction, 33

remuneration, 28

Senior Executive Service, 4, 27, 28

study assistance, 31

training, 16, 25, 31, 32

turnover rate, 28

stakeholder engagement, 13, 48, 95, 96, 112–13

State of the Service report, 32

statistics, 129–30

stored communications, 16, 97, 98, 99

Strategic Plan, 22

Stromlo Running Festival Corporate Challenge, 31

Student Financial Advisors Conference, 14

submissions to Parliamentary committees and government inquiries, 15–16, 46, 90

 list of, 90

 verbal submission on international education, 112

superannuation

 early release of, 38, 54

 unpaid, 57–8, 72

surveillance devices, 16, 97

 records inspections reports, 88, 99

Surveillance Devices Act 2004, 16, 99

systemic issues, ix, x, 9, 11, 14–15, 17, 22,
41, 49, 60, 67, 70, 77, 98, 105, 111

T

Tasmanian Ombudsman, 4

Tax Administration Act 1953, 56

Taxation Ombudsman, 3, 94, 103

see also Australian Taxation Office

*Telecommunications (Interception and
Access) Act 1979*, 16, 99

ambiguity, 98

telecommunications interceptions, 16, 97, 99

number of inspections of records, 16

telephone queue and auto-attendant
messaging system, viii–ix, 9, 10, 11–12,
40, 55

Tertiary Education Quality Standards Agency,
111, 112

Tonga, 116

training

agency and service provider staff, 13, 44,
61, 80, 105, 114

Ombudsman staff, 16, 25, 31, 32

overseas, 115, 117

Treasury, 130

tribunal litigation, 27

Tuition Protection Service, 110, 111

V

Vanuatu Ombudsman, 116

Vexatious Applicant Declaration, 27

Victoria Police, 88

Victorian Ombudsman, 117

Villawood Immigration Detention Centre, 101

vulnerable people, 16, 43, 44, 47

W

waste management, 26

website

accessibility, 25

address, v

West Australian Ombudsman, 117, 118

Western Australian International Education
Conciliator, 114

whistleblower protection scheme, 121–2

Work Health and Safety Act 2011, 23, 31

Work Health and Safety Committee, 23

Work Health and Safety Officers (WHSOs),
31, 32

work practices, 22, 23

Workers Compensation, 34

workplace agreements, 27

Workplace Relations Committee, 24

workplace relations, 27–8

Y

Youth Allowance complaint, report, 16, 46,
75–6, 89

Yongan Hill Immigration Detention Centre, 101

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www.ombudsman.gov.au

Twitter: www.twitter.com/CwealthOmb

Services available to assist you to make a complaint

If you are a non-English speaking person, we can help through the Translating and Interpreter Service (TIS) on 131 450.

If you are deaf, or have a hearing impairment or speech impairment, contact us through the National Relay Service (www.relayservice.com.au/):

- TTY users phone 133 677 then ask for 1300 362 072
- Speak and Listen users phone 1300 555 727 then ask for 1300 362 072
- Internet Relay users connect to the National Relay Service (www.iprelay.com.au/call/index.aspx) then ask for 1300 362 072.

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