OFFICIAL

COMMONWEALTH OMBUDSMAN

GUIDANCE – WORK PRACTICE MANUAL: STRATEGIC INVESTIGATIONS

ENDORSED JULY 2024

About this document	
Purpose	This manual contains general information to assist staff in the Strategic Investigations teams to perform their functions.
User/s	Strategic Investigations 1 and 2
Publication/release to other sites	N/A
Outcome	Use of the manual promotes consistency and best practice, and compliance with other Office policy and procedures.
Version number	1.1
Consultation	N/A
Approved/endorsed by	Director, Strategic Investigations 1 Director, Strategic Investigations 2
Date approved/ endorsed	July 2024 (Version 1.0) September 2024 (Version 1. 1)
Next review date	January 2025
Contact team	Strategic Investigations 1, Investigations Branch Strategic Investigations 2, DIAL Branch

VOLT-2056524499-356

Contents

Introduction

This manual contains general information to assist staff in the Strategic Investigations teams to perform their functions. This document should be read with the policies that govern Strategic Investigations work including but not limited to the Investigations Policy, Recommendations, Suggestions and Comments Policy and Monitoring and Assessment of Recommendations and Suggestions Policy.

The work of Strategic Investigations contributes to the broader objectives of the Office of the Commonwealth Ombudsman (the Office) to:

- Provide assurance that the agencies and entities the Office oversees act with integrity and treat people fairly.
- Influence systemic improvement in government administration.

In particular, we influence government agencies to be accountable, lawful, fair, transparent and responsive through our own motion investigations (OMIs) and making and following up on the implementation of recommendations and suggestions made as a result of our OMIs.

In carrying out our functions, the Strategic Investigations teams follow the below overarching principles:

- We work collaboratively, sharing knowledge and resources fluidly to achieve joint priorities.
- We engage with internal stakeholders regularly to ensure we are performing an office-wide function.

OFFICIAL

- We maintain and build strong working relationships with external stakeholders to enhance our ability to influence systemic improvement.
- We deliver timely products of a high-quality that support the Office's overarching strategic objectives.

1. Our functions

1.1 Own Motion Investigations

Strategic Investigations conducts investigations and inquiries under the *Ombudsman Act 1976* (the Act) and the *Ombudsman Regulations 2017*[1] into serious and systemic issues in administrative practices identified within the Commonwealth Government for the purpose of influencing systemic improvement. We prepare reports on results of our investigations which may include recommendations, suggestions and comments to agencies, which may be published.

1.1.1. How we identify topics for investigation

OMIs can commence from many different sources. For example, we may:

- identify trends across complaints received by our Office that warrant a more systemic investigation (sometimes even a single complaint can indicate a systemic issue)
- spot issues in environmental scanning (e.g. media), or
- be advised of an issue by an agency directly.

The Strategic Insights team is responsible for identifying, monitoring and considering current and emerging issues and risks across the Office, including those arising from incoming complaints. Staff in the Complaints and Investigation Branches will flag issues identified in complaints with the Strategic Insights team.

When considering topics for a new OMI, Strategic Investigations staff should contact Strategic Insights for advice on any issues they have been monitoring that may benefit from an OMI.

Proposing OMI topics to the executive

Once potential OMI topics have been identified, Strategic Investigations will often develop on options paper for the Ombudsman's decision on which topic to proceed with (see example here). The options paper should include background on the issue (including our Office's current and prior involvement and/or recent oversight of the issue from other Government bodies), the proposed investigation approach, a rough estimation of how long the investigation will take, proposed outputs from the investigation and the pros and cons of the option compared to other options. Strategic

[1] When accessing legislation through links, double check to make sure the version accessed is still in force and has not been superseded.

OFFICIAL

Investigation staff may wish to provide a recommendation on preferred topics from their initial research.

1.1.2. How we conduct OMIs

Once a topic has been selected, an OMI will be commenced. In commencing and conducting investigations, investigation officers must follow the Office's Investigations Policy. This policy provides guidance to staff including the process for conducting an investigation, methods for obtaining information from agencies, options for resolving issues during an investigation and possible outcomes for an investigation.

The Investigations Policy also sets out better practice principles that guide how staff should conduct an investigation, acknowledging that the way we conduct investigations can impact the way the Office is perceived, the outcomes we achieve and the effectiveness of our influence.

When commencing an OMI, create a new investigation Objective folder here. All documents and correspondence relating to the investigation should be saved within this folder. A Resolve record is not created until the report is finalised and recommendations and/or suggestions are made.

1.1.3. Liasing with agencies during an OMI

During an investigation, we will liaise with the agency we are investigating at several key points. This includes:

- We may wish to make preliminary inquiries under s 7A of the Act prior to commencing an investigation.
- We may meet with the agency prior to an investigation formally commencing to help inform the development of the investigation scope (this may also be part of preliminary inquiries under s 7A of the Act). If this occurs, it is important that we do not, and are not perceived by the agency, as giving the agency the opportunity to influence the scope of the investigation. The purpose of such a meeting is solely to inform our background knowledge of a topic so we can make sure we ask the right questions.
- We will formally notify the agency of the commencement of the investigation and send them formal requests for information (RFI).
- We may hold an 'opening meeting' or 'entry interview' with the agency to introduce them to the investigation and walk through the questions in our RFI. Benefits of holding an opening meeting can include enhancing the quality of the response we receive to our RFI.
- We may need to engage with the agency to ask clarifying or follow-up questions on their response to our RFI.
- We may need to issue further RFIs and depending on the investigation we may employ other investigative strategies including interviews and site visits.
- We may decide to hold an 'exit meeting' with the agency after we have settled our preliminary findings with our Executive. If this occurs, it is important to explain to the agency that this is for the purpose of walking through the findings. It is not an opportunity for the agency to influence the findings. Benefits of

OFFICIAL

holding an exit meeting can include facilitating a timely and meaningful response to the recommendations in the procedural fairness process and potentially identifying early whether there is any information that we have not taken into account or any errors of fact we may have made.

- We will formally provide the agency with a copy of the draft report for procedural fairness in a non-editable, pdf format. This is an opportunity for the agency to comment on any errors of fact and provide a response to the recommendations only.

During all engagement with the agency, it is important that the investigations team adhere to the behavioural standards (as outlined in the Investigations Policy) at all times. The level at which certain communications will occur may differ from investigation to investigation and will be best determined by discussing with your Director.

If the investigations team has any concerns regarding the agency's engagement with our Office this should be escalated.

1.1.4. Investigative Interviewing

Investigative interviewing is a non-coercive method of questioning to obtain complete, accurate and reliable information. It often involves eliciting a detailed account of an event or situation from a person to assist decision-making.

When developing a project plan for an OMI, staff should consider whether conducting investigative interviews will benefit their investigation. Often, interviews will be beneficial when assessing 'effectiveness' in practice and/or you need to:

- obtain first-hand information quickly
- gather anecdotal information that cannot be obtained from documents alone, or
- gain evidence of personal experiences.

For information about the legislative powers under which we can conduct interviews, staff should refer to the Investigations Policy.

There are 6 general principles for effective interviewing:

1. Prepare as much as possible

Interview plan

Develop an interview plan before you commence the interviews. Your experience will determine how detailed this plan should be. You should consider following this outline:

- An **opening statement** that introduces the interviewers, explains the purpose of the investigation and the interview, asks for honest and frank feedback and conveys any other necessary information such as the protections and confidentiality requirements under the Act and how you will use the information given to you (i.e. will it be de-identified?). Often our investigations are not about

OFFICIAL

an individual and are focused on an agency's policy, processes and procedures as a whole. If this is the case for your investigation, tell the interviewee that. It can help make them feel more comfortable answering questions.

- **Interview questions or topics** – sometimes it can be helpful to have some questions or topics that you want to cover written out in advance. However, be careful not to be too wedded to your pre-prepared questions to the extent that you risk stifling the interview and appearing as though you are not actively engaging with the interviewee. One effective strategy is rather than writing out specific questions at length, instead have a list of topics you want to cover (e.g. 'their role, their experience with x policy, their view on what can be improved') – that way you can tick them off as the conversation flows, and circle back to any topics not covered, making sure you cover everything you set out to. You should consider following this line of questioning:
    - Start with a general open question to encourage a conversation and gather opinions and thoughts on a topic (e.g. "Tell us about your experiences with x…") - these are the questions you can plan in advance.
    - Follow up with specific questions building off the information you have gathered in response to your open questions (it will not be possible to plan for these questions, you will need to think on your feet).
    - Summarise the response to both demonstrate and confirm that you have understood what the interviewee is saying. Ask any clarification questions here if you need to.
- A **concluding statement** that opens the door for the interviewee to ask any questions. Explain what happens next with your investigation and be sure to provide your contact details to the interviewee in case they want to reach out after the interview. You may also wish to ask for the interviewee's contact details if you anticipate a need for follow-up questions.

Where and how?

Think about the logistics of the interview. Where possible, face to face interviews may be preferable and more effective than virtual interviews. Make sure you have booked a private space where there will be no interruptions and that you have allowed sufficient time for the interview. Consider any accessibility requirements or whether your interviewee may wish to have a support person attend. You should be appropriately prepared to take records of the interview (it is important to accurately capture information obtained).

Who conducts the interview?

It's best to have a second person attend as a scribe, to ensure you don't miss any topics or questions and free you up to listen and engage with the interviewee. In addition, using a voice recorder is crucial to help make sure the information you capture is of sufficient quality to be relied upon to support possible findings. If using a voice recorder, make sure to capture consent from the interviewee at the beginning of

OFFICIAL

the recording (in addition to all questions asked, answers given and information provided to the interviewee).[2]

What's the format?

Think about the format of the interview – will it be individual interviews or roundtables? Often individual interviews will be preferable but not always practical or possible in the environment we work in terms of time and resources. When conducting roundtable interviews, think about the relationships between the people in the room. If you are seeking to obtain first-hand honest accounts from APS level employees delivering a program, will the presence of Executive staff in the interview likely impact how frank and fearless the APS staff are in providing their responses? If so, take control of the interviewee list and politely tell the agency that only the people listed can be present during the interview. Make sure to allow Executive staff time and opportunity to present their views as well.

2. Establish rapport

Establishing professional rapport is essential to the success of your investigation as it will help you get the information you need. This starts before the interview commences. Make sure your interviewee has the tools and knowledge needed to participate in the interview actively and meaningfully. While it is generally not recommended to provide questions in advance, consider sharing a copy of the investigation scope or list of topics that you want to discuss. This context will help make your interview time as productive as possible.

When conducting the interview, it is important to remain professional, impartial and independent at all times. You are likely also not in a position to commit at this stage to any findings or recommendations from the investigation.

It is entirely possible to do these things while also presenting yourself as friendly and approachable to the person you are interviewing (particularly noting the circumstances in which we are conducting the interviews are non-adversarial). Some tips include making personal introductions, actively thinking about your body language and tone of voice (it's ok to smile!), giving appropriate eye contact (not always looking at your notes or computer screen!), paying attention to your interviewee, being respectful and courteous, being patient with your interviewee giving answers, and expressing empathy (whilst avoiding expressing personal opinions or using overly subjective or emotive language). Demonstrating a baseline knowledge and understanding of the issue you are investigating will also assist with building rapport as it demonstrates you are competent and have done your homework.

3. Be thorough

[2] s 22 [redacted]

OFFICIAL

Our findings and recommendations must be evidence-based. If you are obtaining your evidence (or part of your evidence) through interviews then the evidence you collect must be capable of supporting this. Do not shy away from asking difficult or sensitive questions where relevant to your investigation.

You will likely have a long list of things you want to ask your interviewee. One of the trickiest parts of interviewing is balancing this with the benefits of maintaining a natural flow in the interview. Your interviewee's answers might at first appear to be tangential to your initial objective, but you then find they have actually identified an issue you haven't even thought of yet! You may also think of additional questions that you want to ask the interviewee after hearing their response.

A couple of strategies that can help you manage this:

- When planning for your interview, be realistic about how much time you have. You may need to limit your questions accordingly and be conscious of scope-creep.
- Think about the absolute essentials that you want to get out of the interview. Perhaps you want to categorise your questions/topics into 'must ask' and 'would be nice to ask'.
- Allow time towards the end of the interview to take a couple of short moments to quickly review your interview plan and make sure you have ticked off your 'must ask' questions. Be open with your interviewee – tell them that you want to quickly review your notes to make sure you haven't missed anything.
- If you run out of time, try to avoid interrupting your interviewee to ask your final questions. Tell them instead that you will send them any additional questions in writing. Don't approach your interview just as a list of questions you need to get ticked off.

4. Be objective

As mentioned above, we conduct impartial and independent investigations. Our actions and decisions must be free from actual or perceived bias or conflicts of interest. For more information on better practice principles in terms of how we conduct our investigations, see the Investigations Policy. These principles apply equally to conducting interviews.

It is critical that you keep an open mind when conducting your interview. At this point of your investigation you are likely to have at least commenced your desktop review of the agency's policies and procedures and/or spoken to other interviewees, and possible findings and recommendations might have already started to form in your mind. Stick to your interview plan and avoid asking closed questions or trying to steer the interviewee towards a response that supports your preliminary observations.

A good way to achieve this is to keep your questions open - i.e. questions that allow the interviewee to answer in their own words, rather than leading or closed 'yes or no' questions - and without assumptions built into the question:

OFFICIAL

For example – instead of "Would you agree that x process doesn't work?", you would ask "What are your experiences using X process?".

Let the interviewee tell the story in their own words, and don't interrupt, or complete their answers for them. Once they've completed their answer, ask clarifying questions – but be careful not to agree with them necessarily, or give your own opinion on matters.

5. Keep control of the process

A great interviewer has mastered the art of keeping control of an interview, whilst still actively listening and engaging with the interviewee. Use your plan to guide you through the interview and maintain control of the information flow.

Interviewees may come into an interview with a preconceived idea of what they want to say or what point or information they want to get across. If the interviewee's response starts to go too far off topic, politely but firmly guide them back. An effective strategy for doing so can be building off an element of their response that is directly on point (for example, 'earlier you mentioned 'xyz', I'd like to hear more about how you managed 'xyz'). This keeps your interview on track whilst maintaining rapport and demonstrating active engagement.

While you should set the scene for your interviewee, provide appropriate background on your investigation and the purpose of the interview and give room for the interviewee to ask questions, avoid allowing your interviewee to 'cross-examine' you. Your interviewee might be curious about how your findings are developing and seek to ask you questions about this. Tell them that we are in the information gathering phrase of our investigation and have not yet formed findings. Keep in mind that any findings we eventually make must be approved by the Ombudsman. Depending on who you are speaking to, you might want to reassure them that the agency will have an opportunity to formally respond to any findings in response to a draft report.

6. Listen actively

If there is one key thing to keep in mind when conducting your interview, it's listen actively! As we have seen through exploring the above principles, this is really at the heart of most. Keep in mind that it is ok if you end up doing minimal talking during the interview – the best interviews often require very little talking from the questioner, as your job is to facilitate the interviewee giving you information. Some interviewees will need less guiding than others.

1.1.5. Senior executive engagement and clearance

During the investigation

Staff must keep the Senior Executive up to date with the progress of an investigation. Regular meetings with the Senior Executive should be established across the duration of the investigation (generally bi-monthly and the timing of meetings targeted at key points of the investigation). In particular, staff should use these meetings to brief the Senior Executive and seek views on any preliminary findings as they are formed. If any

OFFICIAL

issues or delays arise during an investigation it is important to promptly escalate these to the Senior Executive.[3]

Report clearance – draft for procedural fairness

Our OMI reports are often reports made under s 15 of the Act with recommendations. Section 15 of the Act is a non-delegable power. Staff must seek formal clearance from the Ombudsman both prior to providing the draft report to the agency for procedural fairness and finalising the report. Clearance must be documented on a formal minute.

When providing the draft report to the Senior Executive, staff will formally seek the Ombudsman's approval of:

- the draft own motion investigation report, and
- letters to the head of the agency.

At this point, the Ombudsman should be made aware explicitly aware of any risks, consultation that has occurred and next steps for the report.

Report clearance – final report

When providing the final report to the Senior Executive, staff will formally seek the Ombudsman's approval of:

- the final own motion investigation report
- publication of the report under s 35A of the Act
- letters to the head of the agency and relevant minister, and
- the final media release and media strategy (unless approval has already been given separately and no changes have been made).

At this point, the Ombudsman should be made aware explicitly of any changes to the report in response to the agency's response to the draft report (see section 1.1.6 below); any risks; provided an assessment of the requirements of s 35A of the Act as it applies to this report (i.e. why it is considered that it is in the public interest or interest of the agency or person to publish the report; that the disclosure will not interfere with the carrying out of an investigation or the making of a report; and whether s 8(5) of the Act has been complied with); provided details of any consultation that occurred and advice regarding next steps for the report.

1.1.6. How to approach an agency's response to a draft report

Section 8(5) of the Act requires that, before finalising a report of an investigation (including a s 15 report), if the Ombudsman intends to include opinions that are either expressly or impliedly critical of an agency or individual in the report, the Ombudsman must give that agency or individual the opportunity to make submissions either orally or in writing to the Ombudsman. This requirement must also be met before making the

[3] While not mandatory, sometimes a PowerPoint can help guide an Executive briefing. See an example here.

OFFICIAL

report public under s 35A of the Act. See the Investigations Policy for more information about procedural fairness requirements.

Key things to remember when providing a report to an agency for procedural fairness is that we must only provide a non-editable (PDF) document to the agency and we are seeking:

- comments on errors or omissions of fact only, and
- an agency response advising whether it accepts or does not accept each recommendation or suggestion (along with expected timeframes for implementation and planned action).

The Monitoring and Assessment of Recommendations and Suggestions Policy includes a template for an agency's response to our draft report at Appendix A. This template has been designed to support information being received from agencies in a consistent format.

However, agencies are not required to respond in this format and you may find that agencies, from time to time, seek to provide information beyond what we have requested. For example, agencies have previously sought to provide 'editorial comments' on our report. If this occurs, it is important to formally advise the agency (usually via the covering letter to the final report) that the Office does not accept editorial comments on our reports. The Ombudsman may decide to publish our letter advising the agency of this with the report to provide transparency to the public.[4]

To mitigate risk of this occurring, you should pre-emptively advise the agency that editorial comments will not be accepted when providing the draft report to the agency for procedural fairness.

Ultimately, while the agency may disagree with a report and its findings, the Ombudsman has ultimate discretion over the conclusions drawn and the content of the report which is a statement of the Ombudsman's independent opinion.

It is important to document how we have handled an agency's response to a draft report and give visibility of this to the Senior Executive (particularly where an agency has purported to make editorial comments). This can be achieved in the covering minute when seeking clearance of the final report. For example, a table such as the following can be included in the minute:

'The table below sets out changes made as a result of [the agency's] response to the report. A copy of [the agency's] response will be incorporated as an attachment to the final report, in addition to your letter providing a final copy of the report which advises [the agency] that our Office does not accept editorial comments on our reports.'

[4] See the approach taken in the 'Taking Liberties' report.

OFFICIAL

Original text	[Agency] comments	Action taken
[Insert the original text in the draft report]	*[Insert the agency's comments on the text, whether that be advice on errors of fact or omission, matters of opinion[5] or editorial comments]*	*[Advise of action taken to address the agency's comments. Either:* • *no changes made and explaining why* • *highlighting specific changes made and explaining why (note this will generally not be appropriate for matters of opinion or editorial comments)]*

If publishing the agency's response to the report and/or including correspondence from our Office to the agency with the published report, contact details (emails and phone numbers) of staff must be redacted as should the names of any non-SES staff.

1.1.7. What we do after an investigation has concluded

Post-finalisation review (must be completed and director cleared within 4 weeks of finalised investigation)

After each investigation the investigation team will conduct a post-finalisation review to capture lessons learned from our experience conducting the investigation. The purpose of this exercise is to identify (usually through an investigation team debrief post investigation):

- What worked well during the investigation?
- What could have been improved?
- What should the team or the Office do in future to improve how we conduct investigations?

If specific recommendations or actions for the broader Office are identified, Strategic Investigations will submit a post-finalisation review report to the Executive Committee for endorsement. There is no strict form for this report (see as an example: Income

[5] It is open to an agency to express matters of opinion but these should be included in the agency's formal response which will usually be attached to the published report, rather than as marked changes or requested amendments to our report.

OFFICIAL

Apportionment OMI #1 post finalisation review - Executive Committee paper and attachment). Staff should consult with any impacted team in the Office prior to finalising the report. This can be circulated to the Executive Committee out of session.

If no specific recommendations or actions are identified, or the only recommendations or actions are internal to the Strategic Investigations teams, no report to the Executive Committee is required. The outcomes from the post-finalisation review should be documented and kept on the investigation file.

Completion of the post-finalisation review is a specific internal performance measure for the Strategic Investigations teams (see section 4.10 below).

Glasshouse reviews

Once an OMI has concluded, the investigation team will conduct a 'Glasshouse' review of the any recommendations made. The purpose of a glasshouse review is to capture opportunities for continuous improvement in our practices. It is important that the Office holds itself to the same standard as we expect of other public service agencies or private entities we oversee.

OFFICIAL

This involves:

1. Strategic Investigations assessing whether any of the recommendations from the OMI apply to our Office (for example, we may make a recommendation regarding an agency's complaint handling framework which would be relevant to our Office's complaint handling framework).
2. Where the recommendation applies to our Office, Strategic Investigations liaising with the relevant business area to request that area assess its own compliance with the recommendation (for example liaising with the Complaints branch to assess whether it is complying with our recommendation regarding complaint handling frameworks). If it is assessed that our Office is not compliant with our recommendation, the relevant business area should provide details of action it will take to ensure compliance. This then becomes an internal recommendation for our Office.

The Glasshouse review process only applies to recommendations made, not suggestions or comments.

The Glasshouse review report (see template here) will be presented to the Executive Committee for endorsement of any internal recommendations. Internal recommendations are then monitored by the Office's Governance team in line with our Office's Internal Recommendations, Continuous Improvement Monitoring and Assurance procedural instruction.

Often, the Glasshouse review report and post-finalisation review will be provided to the Executive Committee as part of the same paper. This can be circulated to the Executive Committee out of session.

1.2 Recommendations and Suggestions Implementation

We monitor and assess agency implementation of recommendations and suggestions made by our Office. Systemic improvement in government administration is an ongoing process and it is important that we follow up with the agency on action it has taken to implement our recommendations and suggestions. We assess the information provided by agencies to determine whether a recommendation or suggestion has been implemented, partially implemented or not implemented. We provide our assessment to the agency, which may outline any further action we want to see the agency take. We may report on our assessments publicly.

Staff should refer to and comply with the Recommendations, Suggestions and Comments Policy (RSC Policy) when making recommendations, suggestions and comments under the Act.

Staff should refer to and comply with the Monitoring and Assessment of Recommendations and Suggestions Policy (MARS Policy) when monitoring, assessing and reporting on agency implementation of recommendations and suggestions made by our Office.

OFFICIAL

For guidance on using Resolve to track agency implementation of recommendations and suggestions see the Resolve Recommendations Tab Procedure.[6] Note that the Resolve Recommendations Tab is not currently set up to support follow-up of implementation activities for s 12(4) suggestions with the 'recommendation source' is 's 12(4) suggestion'.[7] It is not currently possible to make changes to Resolve ahead of the new CRM being implemented. Strategic Investigations have provided to the CRM project team a list of requirements for the new CRM to ensure it supports current Office policies.

Note: The Resolve Recommendations Tab Procedure states that 'if you are monitoring a recommendation, comment or suggestion made in correspondence with an agency or a formal report, you need to create an IOI in Resolve first and then use the Recommendations Tab within that IOI.' For guidance on how to create an IOI – refer to the Standard Operating Procedure - Issues of Interest.

Documents and correspondence related to our monitoring and assessment activities should be saved in Objective here and linked in the relevant Resolve file.

The Strategic Investigations teams are responsible for monitoring and assessing all recommendations and suggestions arising out of OMIs conducted by the Strategic Investigation teams.[8] Other teams across the Office are responsible for monitoring and assessing recommendations and suggestions from their investigations.

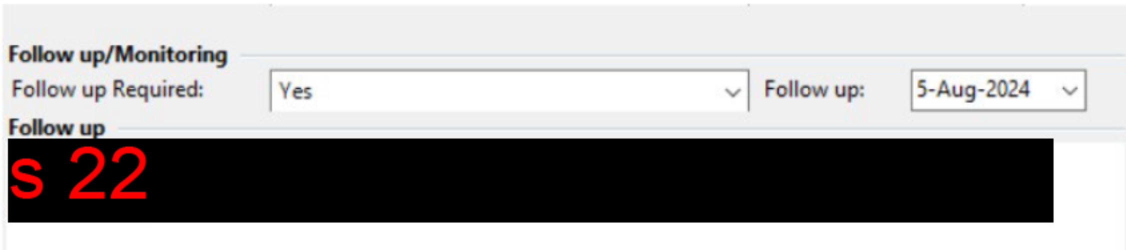
Strategic Investigations has external and internal reporting requirements for this work as outlined in the MARS Policy. Strategic Investigations are currently developing a new internal report with the assistance of the BIIP team. Guidance on how to complete our internal reporting to the Executive Committee will be developed.

1.2.1 How to know when to follow-up on agency implementation?

The MARS Policy sets out when to commence assessment of agency implementation of recommendations and suggestions.[9] In practice, staff should be keeping Resolve up to date with agency advice on expected implementation dates, which in turn will help us know when to return to an agency to follow-up. For example, the date in the 'Follow up' field below is when the agency has advised that they intend to have fully implemented the recommendation:

[6] See further information at section 4.3.
[7] It will be possible to follow-up on implementation of s 12(4) suggestions where the recommendation source is 'own motion investigation'.
[8] Note: because of the December 2022 Office re-structure the former Strategy Branch was disbanded. Any recommendations arising from OMIs conducted by the former Strategy Branch are monitored and assessed by the Strategic Investigation teams, unless otherwise agreed with an alternate team (for example, ACT Strategy & Inspector team are responsible for monitoring and assessing implementation of all recommendations from previous ACT OMIs).
[9] See Section 7.

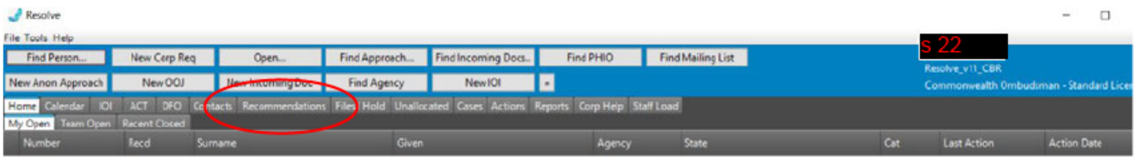
OFFICIAL



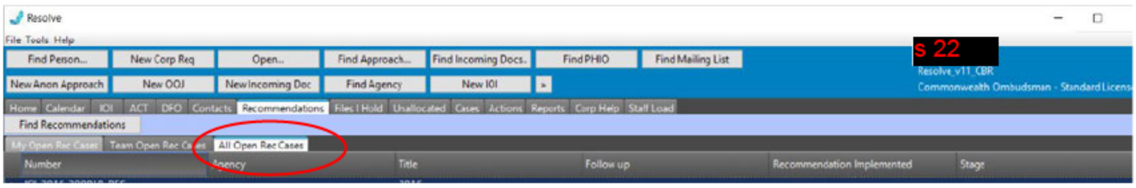
As per the MARS policy, generally we commence assessment of recommendations and suggestions from an investigation when approximately 80% of the recommendations and suggestions are scheduled to have been implemented. In most instances, assessment activities should commence within 3-6 months of this date.

To run a report on all open recommendations to identify which recommendations or suggestions have passed their expected implementation date, follow the below instructions:

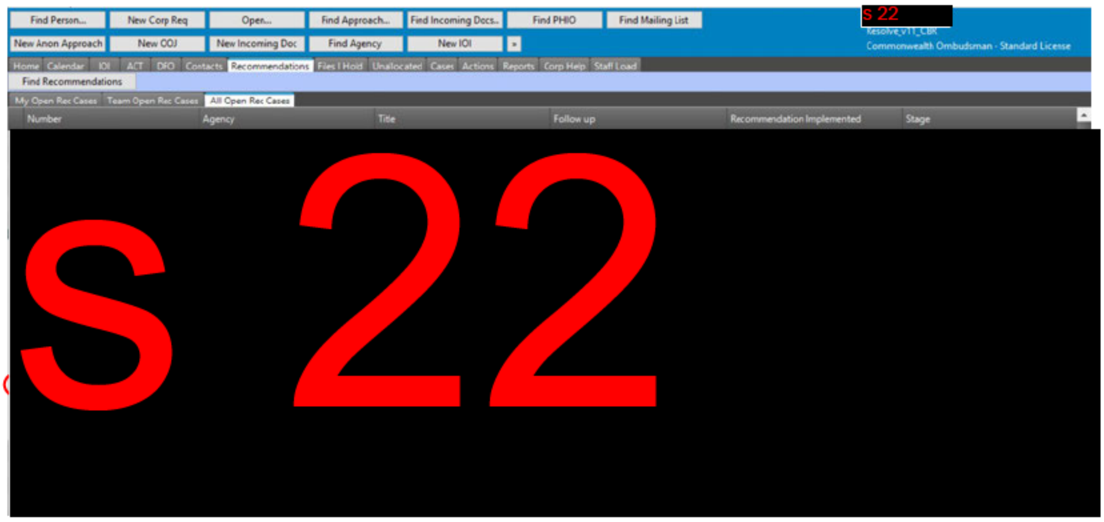
1. Select the 'Recommendations' tab



2. Select 'All Open Rec Cases'

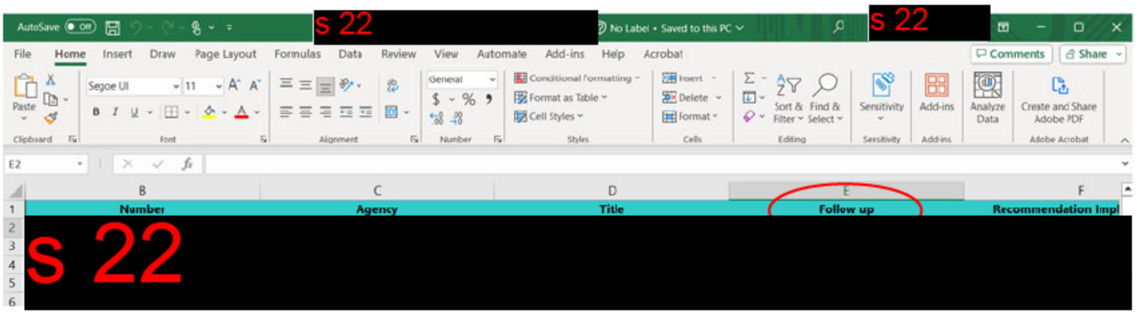


3. Right click anywhere in the list of recommendations and select 'Preview List'



4. This will open a list of the open recommendations in Excel that can be filtered by 'Follow Up' date.

OFFICIAL



If you are looking to follow up on an old recommendation made prior to the introduction of the MARS Policy, an up-to-date agency implementation date may not be in Resolve. In these circumstances, staff can email the agency seeking advice on when the agency expects it will have implemented each recommendation by. Example emails are available here. Staff will need to review and tailor the email as appropriate. Once this advice has been received, Resolve should be updated accordingly, the email saved to Objective and linked to the Resolve file.

Section 12(4) suggestions made prior to the endorsement of the MARS Policy do not need to be followed up and can be closed in Resolve.

1.2.2 Where a recommendation or suggestion has previously been assessed but remains open

As per the MARS Policy, where we have assessed an agency has not implemented or partially implemented a recommendation or suggestion, a decision is made on a case-by-case basis whether to close the recommendation/suggestion, or keep the recommendation/suggestion open and return at a later date to conduct a further assessment.[10]

When considering whether to conduct further assessment activities, staff should make a recommendation using the guidance in the MARS policy and the template available here.

Decisions on whether to conduct further assessment activities or close a recommendation or suggestion that has not been assessed as fully implemented are made by the relevant Senior Assistant Ombudsman.

Staff must update Resolve with records and linked documents supporting their recommendation and the SAO's decision. Recommendations and suggestions should be closed in Resolve if this is the SAO's decision.

1.2.3 How to start following up on agency implementation?

Once the expected implementation date has passed, you can commence your assessment of the agency's actions in implementing recommendations and

[10] See Section 9.

OFFICIAL

suggestions. The MARS Policy sets out how to commence assessment of agency implementation of recommendations and suggestions.[11]

We commence by writing to an agency to seek information and evidence on the actions taken. Because we use s 8(3) and s 15(4)[12] of the Ombudsman Act to request and obtain this information, and s 15(4) is non-delegable, the Ombudsman must sign off on letters to agencies or otherwise formally approve the use of s 15(4).[13] A self-assessment template has been developed to assist in obtaining this information.[14]

Staff should prepare a minute to the Ombudsman, self-assessment template and covering letter to the agency. The covering letter should include links to the original report and any earlier implementation reports, background on any previous assessment of implementation, a formal request for information under s 8(3) and s 15(4) of the Act, and a timeframe for the agency's response. The self-assessment template should be attached to the covering letter and include specific requests for information and documents needed to complete your assessment.

Staff should update Resolve to include details of any correspondence with the agency on action taken to implement recommendations and suggestions, with links to the relevant documents.

1.3 Other functions

We may also develop insight reports, analysing findings from our investigations and providing lessons learnt for agencies to proactively influence improvement, or contribute to other strategic projects across the Office.

We deliver training and develop and maintain whole of Office resources about conducting investigations and making recommendations, suggestions and comments. We routinely undertake business improvement projects to ensure we are managing our function as effectively and efficiently as possible.

1.4 Key Terms

'Systemic cultural issues' includes problems embedded in and accepted broadly across a body, stemming from both people (behaviour, expectations, values) and systems (policies, procedures and practices), all of which the Ombudsman considers to fall within matters of administration.

'Appropriateness' – consideration of whether an agency's policies, procedures and practices set up an appropriate framework to do the work in theory, that is suitable for its situation or stated purpose (can be assessed based on existing standards).

[11] See Section 7.
[12] Only applies to recommendations.
[13] Records must be kept on file.
[14] See Appendix B of the MARS Policy.

OFFICIAL

'**Effectiveness'** - consideration of whether the action achieves the desired outcome when applied in practice.

'Proactive' - activities not initiated in response to complaints received by the Ombudsman.

2. Our Staff

2.1 Team structure

There are 2 Strategic Investigation teams in the Office, Strategic Investigations 1 in the Investigations Branch and Strategic Investigations 2 in the Defence, Investigations, ACT and Legal Branch. Each team is led by a Director and has APS5-EL1 staff.

Position descriptions outlining roles and responsibilities for APS5, APS6 and EL1 staff can be located here.

While the 2 teams are in separate branches, we perform the same functions and, in many aspects, operate as joint teams, sharing resources and contributing to joint projects. It is important that all Strategic Investigations staff work collaboratively and share lessons learnt.

2.2 New Starters

In addition to Office-wide induction material, Strategic Investigations has developed the following documents to help introduce new staff to the work of the team:

- A new starter checklist with links to relevant information and guidance.
- A variety of internal recorded training sessions and PowerPoint presentations available here.

Supervisors onboarding staff (either new to the Office or internal transfers) should refer to and direct new staff to these materials.

2.3 Compliance with the Australian Government Investigation Standards

In October 2022, the Australian Government published the Australian Government Investigations Standard (AGIS). The AGIS establishes a standard for Australian Government entities conducting administrative, civil or criminal (type) investigations. An investigation can be broadly described as an activity to collect information or evidence to a particular standard of proof related to an alleged, apparent or suspected breach. An investigation gathers information across a broad spectrum to assist entities to determine a course of action, which may also be preventative and/or disruptive action instead of prosecutorial.

The AGIS recognises that entities will vary in the requirements for qualifications and skills to conduct types of investigations. Under the AGIS, investigators must also hold

OFFICIAL

(or obtain within a reasonable timeframe) a vocational education and training qualification in investigations, unless another qualification, internal training or other recognition of prior learning is determined as equivalent.[15]

Entities **must** document the required VET accredited qualification/s (or equivalency) to conduct particular types of investigations and the timeframe in which investigators should obtain the qualification. The Australian nationally recognised VET accredited qualifications to conduct investigations are:

- Certificate IV in Government Investigations
- Diploma of Government Investigations
- Advanced Diploma of Government Investigations

Equivalencies can include (see section 1.3.2 in the AGIS)

- Formal industry training that has imparted skills and knowledge which results in a demonstrated investigations competency
- Informal training or experience that has imparted skills and knowledge which results in a demonstrated investigations competency.

Entities **must** determine and document qualifications, training or experience equivalent to VET acquired qualifications required for a type of investigation. Entities **should**:

- determine legal, enforcement or regulatory qualification/s as equivalency to replace VET accredited qualification/s
- determine formal training (type, currency) as equivalency
- determine informal training and/or experience (type, currency and time spent) as equivalency
- outline additional requirements for learning and/or entity certification requirements.

The requirements under the AGIS apply to our Office, including Strategic Investigations staff. There is considerable flexibility under the AGIS to determine what qualification and training our staff need. Equivalencies could fall into one of 3 different categories: qualifications, internal training or experience.

When new staff commence with the team, Directors will undertake the process outlined here (unless or until a whole of Office approach is set). Where staff are temporarily seconded or placed within the team for a short period of time, it will not be possible or appropriate to invest in formal training. Instead, this staff member will be supported by on the job informal training and mentoring for the duration of their placement. If the staff member subsequently becomes a permanent member of the team, formal assessment against AGIS requirements will occur.

[15] See AGIS section 1.3

OFFICIAL

2.4 Security Clearances

At minimum, Strategic Investigations staff should hold an active Baseline security clearance from AGSVA. A Baseline security clearance allows staff to access material classified up to PROTECTED, provided they met the 'need to know' principle.

Strategic Investigations Directors will consider whether there is a business need for staff to have a higher security clearance having regarding to matters including the likelihood of ongoing and upcoming investigations involving a need to access higher classified material or attend classified sites, and active security clearances already held by other members of the team. In doing so, it should be noted that security clearances take many months to process. Any request to upgrade a staff member's security clearance must be supported by a business case and is subject to the necessary approvals.

3. Our Stakeholders

3.1 Internal Stakeholders

The work of the Strategic Investigations teams can intersect with all teams across the Office, however the internal stakeholders we most commonly deal with are listed below.

3.1.1 Communications, Education and Engagement (CEE) team

The CEE team play a critical role in:

- reviewing our reports, factsheets and other documents to prepare for publication
- reviewing media management strategies to support our major publications, and
- managing media enquiries and the coordination of responses regarding our reports.

Strategic Investigations staff must ensure they provide advance notice of publications to the CEE team (with expected timeframes) and liaise with the CEE team at critical points to ensure the smooth publication of our reports. Staff should also ensure our reports comply with the Office's branding and style guides.

In particular, staff must liaise with the CEE team:

- for review of any draft reports before they are provided to an agency for procedural fairness (this should happen after the Executive have provided their initial comments on a draft report but before final approval)
- for review of any final reports after procedural fairness has concluded and prior to final Ombudsman clearance
- for the review of media management strategies and media statements
- for review of any other public material before it is published (i.e. external factsheets), and

OFFICIAL

- for development of internal templates designed for whole of Office use and publication.

Strategic Investigations staff should build in appropriate time for CEE review and clearance to project initiation plans.

The CEE team can also assist in setting up media reports to capture media articles relevant to current OMIs.

The CEE team can be contacted at s 47E(d) [redacted] Media enquiries should be directed to media@ombudsman.gov.au.

3.1.2 *Legal team*

The Legal team provides in-house legal services to the Office and is the primary point of contact for staff who need legal assistance in undertaking their work.

All requests for advice from the Legal team must be approved by a Strategic Investigations Director (or above). It is not required that all OMI reports or material for publication is reviewed by the Legal team. Directors will determine if the material in question raises any legal issues and engage with the Legal team appropriately when required.

Strategic Investigations staff should build in an allowance for Legal review and clearance to project initiation plans.

Requests for legal advice should be sent to s 47E(d) [redacted].

3.1.3 *ACT Strategy & Inspector team*

The ACT Strategy & Inspector team's functions include undertaking OMIs under the *Ombudsman Act 1989* (ACT). While we perform our functions under different legislation, there are many similarities in the legislation and largely our functions should be carried out in a consistent manner.

s 47E(c) [redacted]

[redacted] The expected deliverables for this funding are:

- a new Resolve (or CRM) Recommendations and Suggestions procedures
- facilitating system updates (with ICT support)
- improved internal and external key performance indicators
- whole of office training
- external factsheet development (noting that the ACT Strategy & Inspector team may need to tailor Commonwealth Factsheets for the ACT)

OFFICIAL

- external reporting (the Bi-annual Recommendations and Suggestions Implementation and Monitoring report).

3.1.4 Strategic Insights

The Strategic Insights team supports the Ombudsman and Deputy Ombudsman including by providing advice in relation to Office priorities and emerging issues and risks. See more information about functions of the team here.

The Strategic Investigations teams' primary touchpoint with Strategic Insights is in seeking advice on emerging issues and risks that may benefit from an OMI.[16] Strategic Insights should also be kept in the loop as an investigation draws to a close and findings are made.

Strategic Investigations Directors have a fortnightly meeting with the Director of Strategic Insights, along with the SAO Investigations and SAO DIAL Branch. Assistant Directors and APS staff in Strategic Investigations and Strategic Insights also meet monthly.

Strategic Investigations provide input to the Strategic Insights report prepared for the monthly Executive Committee meeting. We include high level input about our ongoing OMIs and upcoming publications.

Strategic Insights can be contacted at s 47E(d) [redacted].

3.1.5 Investigations Directors Meeting

There are several teams across the Office that conduct investigations either under the Ombudsman Act or other legislation. To facilitate consistency in approach across teams where appropriate, the Directors of these teams meet every two months to brief each other on major investigations on foot, any business improvement work being done (i.e. system upgrades, training, template, policy or procedure development) and systemic issues.

The Directors of the following teams are attendees of this forum:

- Strategic Investigations 1 and 2
- Industry Investigations
- ACT and Commonwealth Investigations
- Public Interest Disclosures
- ACT Strategy and Inspector
- Legal
- Early Resolution
- Complaints Assessment Team
- Law Enforcement and Integrity Oversight
- ACT FOI and Reportable Conduct

---

[16] See section 1.1.1 above.

OFFICIAL

- Strategic Insights

Strategic Investigations Directors chair this meeting and are responsible for organising the agenda prior to each meeting.[17]

3.1.6 Executive Committee

The Executive Committee (EC) is the Office's overarching leadership and management committee that considers the strategic and operational priorities, corporate governance, performance, resource allocation and issues external and internal to the operations of the Office.

The Governance team acts as Secretariat for this meeting and can be contacted at s 47E(d) [redacted]. Ahead of each meeting, the Governance team will contact teams to distribute Committee taskings. Strategic Investigations provides:

- an External Recommendations Monitoring Report at the end of each financial quarter[18]
- updates to the monthly Strategic Insights report[19]
- updates on any ongoing action items (ad hoc)
- ad hoc papers on OMI glasshouse reviews and post-finalisation reports.[20]

3.2 External Stakeholders

Noting the broad scope of our work, the Strategic Investigation teams liaise with many different Government agencies from time to time. To assist in managing external contacts, Strategic Investigations maintains a live register of external stakeholders accessible here.

Staff should note the guidance in the Investigations Policy and above at section 1.1.3.

4. Governance

Strategic Investigations staff should refer to the Investigations Policy for guidance including on:

- managing conflicts of interest and bias
- handling confidential information and assets, and
- record keeping.

Other resources available to support Strategic Investigations staff in performing their functions include the Office's Corporate Plan (which covers the period 2022-23 to 2025-26) and branch plans.

---

[17] Agendas and meeting minutes are saved in Objective here.
[18] See section 1.2 above.
[19] See section 3.1.4 above,
[20] See section 1.1.4 above.

OFFICIAL

4.1 Forward work planning

The nature of Strategic Investigations work is fluid and varied. Beyond our internal and external performance measures, we do not have a set yearly work program. This is to ensure that we have capacity and capability to respond flexibly to emerging priorities and issues. To both provide all staff with an overview of work on hand and help Directors and EL1s manage and allocate work, a live forward work plan has been developed that provides a snapshot of current and upcoming work across both Strategic Investigation teams.

EL1s and EL2s are responsible for updating the forward work plan when new projects arise, unallocated projects are allocated and allocated work is completed.

4.2 Policies, procedures, factsheets and templates

The Strategic Investigations teams are responsible for maintaining the Investigations Policy,[21] the RSC Policy, the MARS Policy and the Resolve Recommendations Tab Procedure. These policies should be comprehensively reviewed annually and otherwise updated on an as needed basis. Minor updates can be approved by a Strategic Investigations Director. Major updates must be approved by the Executive.

The Strategic Investigations teams are responsible for maintaining the currency and accuracy of the following factsheets:

- How the Commonwealth Ombudsman monitors, assesses, and reports on entity implementation of recommendations and suggestions (available on VOLT and published here).
- How to Respond to a Request for Information (available on VOLT and published here).
- Ombudsman own motion investigations information for agencies (last updated November 2021)

Templates for the Strategic Investigations teams use can be found here. Some of these templates are also used by the broader Office. The Strategic Investigations teams are responsible for maintaining the currency and accuracy of the following templates:

- Communications log (also available on VOLT here – along with accompanying guidance)
- Project initiation plan
- Glasshouse report template

[21] The Investigations Policy is also publicly available here. This policy was published under the Information Publication Scheme subject to some redactions under the FOI Act exemptions. When any changes are made to the Investigations Policy, these changes will need to be reflected in the publicly available version (note formatting changes are due to Office branding guidelines). When making changes, staff should consider whether any FOI exemptions may apply under the FOI Act. Any such proposed redactions must be discussed and approved by the Legal team and the Executive.

OFFICIAL

- Section 8(1) OMI initiation notice (not using template response) (also available on VOLT here)
- Section 8(1) OMI initiation notice (using template response) (also available on VOLT here)
- OMI scoping template (also available on VOLT here)
- Section 8(3) request for information response template (also available on VOLT here).
- Section 8(5) procedural fairness letter for s 15 reports (also available on VOLT here)
- Recommendations and Suggestions Implementation Report Word template for the *Actions Speak* report series (available from the CEE Team via s 47E(d) [redacted]).

4.3 VOLT

VOLT is an online information library for Office policies, standard operating procedures, guidance documents and templates. It is the 'single source of truth' in terms of accessing current versions of these documents. Document owners are responsible for regularly reviewing their documents. The VOLT officer in the ICT, Security and Information Management Team will actively remind owners ahead of nominated Next Review Dates; however, document owners should not wait for a review to update their content, but proactively review content for accuracy and currency.

More information and guidance, including templates for documents, is available here.

4.4 Resolve

The Strategic Investigations teams predominately use Resolve to record recommendations and suggestions made, track agency progress in implementing recommendations and suggestions, and report on monitoring agency implementation of recommendations and suggestions. Information on how to use Resolve for monitoring, assessing and reporting on implementation of recommendations and suggestions is available in the MARS Policy and Resolve Recommendations Tab Procedure.

The Strategic Investigations teams have requested changes to Resolve to better align with the MARS Policy. A copy of the changes requested is available here. In May 2024, we were advised that changes to Resolve could not be progressed ahead of the implementation of the Office's new Complaint, Case and Client Relationship Management (CRM) system. These requested changes have been provided to the CRM team for consideration. The Resolve Recommendations Tab Procedure will need to be updated following implementation of these changes.

Currently we do not use Resolve to record, manage or track OMIs. This is because OMIs are not typically initiated from a complainant approach (unlike complainant investigations). We currently use Objective to store all documents and correspondence. As part of the new CRM, we have requested the ability to introduce

OFFICIAL

investigation folders to centrally store all documents and correspondence relating to an OMI. A 'wishlist' of CRM items that has been provided to the CRM team is available here.

4.5 Email

All Strategic Investigations staff should have access to the group mailbox and calendar: [redacted] It is important to use and/or copy in this mailbox for all external correspondence.

Strategic Investigations staff should familiarise themselves and comply with the Strategic Investigations Mailbox and Calendar Rules.

4.6 Objective

The Strategic Investigations Objective files can be located here. Only staff in the Strategic Investigations teams, the Senior Executive and their Executive Assistants have access to these files.

When working on draft documents, staff should ensure that they are working out of documents saved to Objective. This is important to capture version control and audit history, as well as a risk mitigation strategy for unexpected leave etc. Generally, staff should not be working on documents outside of Objective.

To ensure consistency in filing, the Strategic Investigations teams have developed an Objective Structure and Folder Rules. Strategic Investigations staff should familiarise themselves and comply with these rules.

Noting access limitations, when consulting internally on a document (including for example obtaining Comms clearance), the document should be moved to the Internal Engagement folder. All staff across the Office have access to documents within this folder (note alias will not work, the actual document needs to be moved). Once the consultation period has concluded, the document should be returned to its home folder.

4.7 Fortress

Our email system, Objective and Resolve are UNCLASSIFIED. Only UNOFFFICIAL, OFFICIAL and OFFICIAL: Sensitive information can be drafted, stored or accessed on any of these systems.

Fortress can be used to draft, store or access PROTECTED information. Agencies should be advised that if they are connected to the FedLink network, they are able to email PROTECTED information to our fortress accounts. Not all agencies are able to do this and may still need to provide PROTECTED information as hard copies for relevant management. Staff accessing Fortress must have at minimum a baseline security clearance.

OFFICIAL

Strategic Investigations staff with the appropriate security clearance may be given access to Fortress, including the Strategic Investigations group Fortress mailbox – s 47E(d) [redacted].[22]

There is a Strategic Investigations folder in the Defence and Investigations Sharepoint site on Fortress to store material. Open SharePoint by selecting 'My Fortress Sites' from the desktop.

Do not open SharePoint from the start menu. It will not work - you will receive an error asking you to contact an administrator. Once SharePoint is open, navigate to the Defence and Investigations page and find the Strategic Investigations folder.

Whenever a document is saved in SharePoint, a shell file needs to be created in Objective. Follow the guidance in the Creating links to Fortress documents within Objective procedure.

Investigation officers may be exposed to sensitive protected information in the course of their duties. It is important not to under, as well as over, classify reports and email communications.

The Office has flowcharts available which ask a series of questions to determine the classification of information and these are available here.

It is the responsibility of all staff to be familiar with the:

- Australian Government Protective Security Policy Framework (PSPF) which contains the mandatory requirements and the controls to meet the requirements, as well as controls for ICT systems
- Internal ICT security policies and procedures available on here.

All Strategic Investigations staff are expected to complete the Security course on Learnhub as part of the induction process.

4.8 Physical and electronic security

As noted by the Commonwealth Protective Security Manual, agencies must provide a physical environment that limits the potential for the integrity, availability and

[22] There is cost of $1,200 per year per Fortress User. Noting the limited day to day use of Fortress by the Strategic Investigations teams, Directors may decide to limit Fortress access to only a few members of the team.

OFFICIAL

confidentiality of information to be compromised. The Office has put in place a range of physical security measures, to protect information:

- B and C class security containers and combination key locks.
- Secure room
- **PROTECTED** briefcases and satchels.
- Fortress

4.9 Transporting classified documents

Any sensitive or classified material must be transported in a lockable Samsonite briefcase or **PROTECTED** satchel. When flying, the case or satchel must be taken on-board the aircraft as hand luggage and remains locked at all times whilst in transit.

4.10 Workplace health and safety

Under the *Work Health and Safety Act 2011*,[23] the Office has a duty to ensure, as far as reasonably practicable, the health and safety of staff while working. At the same time, workers have a responsibility to take reasonable care for the health and safety of themselves and others in the workplace.

The Office has processes, policy, and other resources to meet its health and safety obligations and to guide staff and other persons in upholding safe workspaces and practices. These can be found on the intranet here.

The Office offers wellbeing services and more information on EAP accessibility can be found on the intranet here.

The Office also maintains a list of Emergency Contacts (including health and safety representatives, first aid officers, emergency (fire) wardens) and harassment contact officers) and Critical and Disruptive Events - Key Staff Contacts.

Staff can also choose to participate in the Office's Emergency SMS Notification system. This system allows the Office to use SMS to notify staff of emergencies, significant business disruptions and ongoing status updates via both personal and work mobile number. Details on how to participate in this system are available here.

More information on the Office's Business Resilience Management is available here.

4.11 Performance reporting

The Strategic Investigations teams are subject to internal and external performance reporting requirements. External performance reporting requirements are set by the Business, Intelligence, Improvement and Performance (BIIP) team. We report quarterly against these requirements and the Office's end of year results are published in our annual report. Internal performance reporting requirements are set by individual teams

[23] When accessing legislation through links, you should ensure the version you are looking at is in force and has not been superseded.

OFFICIAL

and are including in Branch plans. Strategic Investigations reports our results quarterly to the Senior Executive through the 'Branch at a glance' reports. Results are not published.

Strategic Investigations staff should familiarise themselves with and comply with the Strategic Investigations Performance Criteria Methodology.

A template for internal performance reporting is available here.

Quarterly internal performance reporting results should be saved here.

4.12 Risk and mitigation strategies

The Office's Risk Management Policy and Framework sets out the Office's approach to risk management and defines the Office's risk culture, risk appetite and risk tolerance. Strategic Investigations staff should familiarise themselves with and comply with this policy. In particular, staff should have regard to the Office's Risk Analysis Matrix when considering risks, including in the development of project initiation plans.[24]

Common risks faced by the Strategic Investigations team and risk mitigation strategies are set out below. Not all risks will apply to all business activities and there may be additional risks specific to the business activity that are not reflected below.

Description	Risk Type	Initial Risk rating	Controls	Revised risk rating	Treatment
Staff turnover and leave impacting ability to deliver within timeframes.	Operational	High (almost certain, moderate)	Establish clear project framework and good record-keeping practices to minimise disruption during any turnover. Adjust priorities during times of reduced resources.	Medium (possible, moderate)	Director to manage by appropriate internal controls and regular monitoring.

[24] Note the required actions set out in the Risk Analysis Matrix contain some outdated references.

OFFICIAL

An external agency fails to engage cooperatively, impacting progress and outcomes.	Reputational Operational	Medium (possible, moderate)	Use of formal powers to require information, if necessary. Regular engagement with the agency to discuss progress and any problems that arise. Staff using clear points of escalation within the Office where issues arise.	Medium (unlikely, moderate)	Director to manage by appropriate internal controls and regular monitoring.
Responses from an agency are delayed and/or insufficient, impacting progress and outcomes.	Operational	Medium (possible, moderate)	Consider extensions of time where sufficient reasons for request are provided. Consider also escalations or formal powers to obtain missing information. Alternatively, if we do not receive sufficient/relevant information in response to RFI, this can be included in the report.	Medium (unlikely, moderate)	Director to manage by appropriate internal controls and regular monitoring.
The agency provides a high volume of material in response to a request for information – could be difficult to manage considering time and resources	Operational	Medium (possible, moderate)	Draft requests for information clearly and provide template for the Department's response. Provide agencies with a copy of the 'How to respond to a request for	Low (unlikely, minor)	Unlikely to need specific application of resources.

OFFICIAL

allocated to project.			information' factsheet. Hold opening meetings to walk through the RFI. If necessary, we will make risk-based decisions on what information we review – e.g. may not review all documents or may adjust scoping and/or timeframes.		
Staff do not have sufficient subject matter expertise to conduct the assessment, impacting outcomes	Operational	Medium (unlikely, moderate)	Leverage subject matter expertise across the Office.	Medium (rare, moderate)	Director to manage by appropriate internal controls and regular monitoring.
Staff exposure to potentially traumatic material could cause damage to staff's physical and emotional wellbeing (subject to the nature of the business activity)	WHS	Medium (unlikely, moderate)	Organise vicarious trauma training, debrief staff regularly during the project, supervisors to engage closely to provide support. Staff will have access to the Office's wellbeing program including EAP.	Medium (rare, moderate)	Director to manage by appropriate internal controls and regular monitoring.

OFFICIAL

Failure to meet statutory requirements due to intentional or unintentional staff non-compliance	Operational Reputational	High (possible, major)	New starter onboarding and training, current and accurate policies, internal quality controls including templates, internal review and escalation.	Medium (unlikely, major)	Director to manage by appropriate internal controls and regular monitoring.

COMMONWEALTH OMBUDSMAN

A[number]

[date] 2025

[recipient]
[role]
[agency]
Via email: [email]

Dear [recipient]

Draft investigation report in relation to the own motion investigation into [matter]

In accordance with section 8(5) of the *Ombudsman Act 1976* (the Act), I am writing to give you the opportunity to respond to my draft investigation report.

On [date], I wrote to advise you I was commencing an own motion investigation into [agency] and its actions regarding [matter].

I thank you and your staff for your cooperation with my investigation to date, including responding to requests for information in a timely manner and facilitating [details].

I enclose my draft investigation report at **Attachment A** which contains my initial findings and a number of recommendations.

In providing your response to this matter, it would assist me if you did the following things:

i. advise of any errors of fact in the draft investigation report, and

ii. separately, provide a formal response to the draft investigation report using the template provided at **Attachment B**. This formal response will be attached to any final investigation report I make.

I request [agency] provide its response by [time] on [date] via email to
s 47E(d) [redacted]

Please note that I am not seeking suggestions for changes to the content in the draft investigation report, other than to identify apparent errors of fact.

Following receipt of your response, I will determine whether to make a final investigation report under section 15 of the Act. Should I do this, it is my intention to publish the report publicly (including your formal response to the draft investigation report) under section 35A of the Act.

I am sharing this draft investigation report with you for the purposes of procedural fairness and ask you do not share it with anyone beyond those who need to know its contents.

If you wish to discuss any aspect of this matter, you are welcome to contact me directly on [redacted] s 47E(d). Alternatively, your staff may contact [contact] at [email].

Yours sincerely

Iain Anderson
Commonwealth Ombudsman

Attachment A – Draft investigation report

Attachment B – Recommendation response template

OFFICIAL

Introduction to Scoping an Own Motion Investigation

Strategic Investigations (SI) Learning Program Module 1

Endorsed November 2025

The Guidance - Composition and Use of the Strategic Investigations Learning Program (Version 1.0) lists this and other endorsed modules/resources comprising the SI Learning Program as released to VOLT in November 2025

VOLT-2056524499-504

Learning outcomes

On completion of **Module 1**, you will be able to:

1. identify the process for scoping an own motion investigation
2. identify and describe the outcomes for the scoping phase
3. describe the difference between the scoping phase and the information gathering phase
4. identify the role that research and analysis plays in the scoping phase
5. prepare basic own motion investigation scopes.

OFFICIAL

What is the scoping phase?

The scoping phase is a pre-investigative step. It is where we work out what administrative action, specifically, we are going to investigate.

We can think of it as a pre-investigative step because we are doing work to prepare for a formal investigation under the Act.

Typically, the scoping phase is the shortest phase of the investigative process.

1. Scoping

↓

2. Information Gathering

↓

3. Assessment

↓

4. Outcomes

OFFICIAL

What is the genesis of an own motion investigation?

Own motion investigations, in the strategic investigations context, start from **topics**.

These topics can be broad or more specific.

- A broad topic might be something like, “how are agencies communicating with people about administrative decisions?”.
- A more specific topic might be something like, “how is Agency X communicating to vulnerable people about their debts?”.

At its most basic, topics will relate to looking into some form of administrative action by an agency or agencies.

OFFICIAL

Who develops topics and who decides the topic to investigate?

Our colleagues in **Strategic Insights** are responsible for developing topics suitable for an own motion investigation.

Strategic Insights reports directly to the Ombudsman and the Deputy Ombudsman.

The Ombudsman decides what topic is to be investigated. Once he or she chooses this, the matter proceeds to our team to commence the scoping phase.

OFFICIAL

What is our role in the scoping phase?

After the Ombudsman chooses his or her preferred topic, we commence the scoping phase.

Scoping involves **refining** the chosen topic to ensure that it is **clear**, **focused** and within **jurisdiction**.

We do this through **research** and **analysis**.

The nature of the chosen topic will dictate the work that we need to do. As a general rule, the broader the topic, the more work that is required.

1. The Ombudsman chooses a topic

2. We develop the investigation scope

3. We seek the Ombudsman's approval to commence the investigation using that scope

OFFICIAL

What do we need to produce?

From the scoping phase, we need to produce the following outcomes:

1. An **investigation objective**, being the overall purpose of the investigation.
2. The **focus areas** of the investigation, being the parts of administrative action that the investigation will cover.
3. The **guiding focus questions**, being the evaluative questions that the investigation will answer to achieve the investigation objective.

We will work through each of these components one by one.

Also note that during the scoping phase, we typically create a project plan. This project plan outlines things like risks, timeframes, resources, methods, definitions, what matters are not within scope (if needed) and so on.

All these matters, taken together, form our “investigation plan”.

OFFICIAL

How do we frame the investigation objective?

The investigation objective represents the purpose of the investigation. That is, it indicates we want to **find out**. It should be connected, either specifically or implicitly, to a state of affairs in section 15 of the Act.

What this means in practice is that the investigation objective should be framed in a way which calls for the examination of:

- some form of administrative action, and
- whether that administrative action is unlawful, unreasonable, unjust, oppressive, improperly discriminatory and/or wrong in all the circumstances.

OFFICIAL

Why do we connect the investigation objective to section 15 of the Act?

Section 15 of the Act is the Ombudman's power to make an investigation report (i.e. bring it into existence formally) and give recommendations to agencies and other persons/bodies.

Section 15 of the Act has certain **thresholds** that must be met.

If these are not met, then the Ombudsman <u>cannot make the investigation report</u> and as such, is not able to make recommendations.

OFFICIAL

Example 1 – Hypothetical topic: investigation objective

Consider that we have been provided with the following topic for investigation.

How might we frame the **investigation objective**?

“Your next investigation will be on the topic of how agencies deliver in person services for people with a physical disability. We continue to receive complaints from individuals telling us that they cannot attend/access service locations because, for example, those places do not provide wheelchair access. This is causing a great deal of distress for these people. The complaints have almost exclusively related to Agency X”.

OFFICIAL

Example 1 – Sample answers

Examples of how we might frame our investigation objective are as follows:

- “This investigation will examine whether Agency X’s approach to providing people with a physical disability access to its in person services is **reasonable** and **lawful**”.
- “This investigation will examine whether Agency X is **appropriately** providing people with a physical disability access to its in person services”.**

**In the second example, you will see that we have not used any of the section 15 of the Act words here. That is ok, because appropriateness is a word that we can use to informally denote all the thresholds at the same time. For example, the investigation might conclude that Agency X is not providing people appropriate access because they are not complying with the law (unlawfulness) or because they simply do not care (unreasonableness).

In sum, our investigation objective should be short, clear and directed to finding out matters that fall under section 15 of the Act.

OFFICIAL

Guiding focus questions and the information gathering phase

It is critical to know that our guiding focus questions need to be **evaluative**.

Evaluative questions call for some type of judgement about whether something is good or bad.

In the information gathering phase, we then consider what information we need to best answer these. This is covered in **Module 2**.

OFFICIAL

Example 2 - Hypothetical topic: focus areas and guiding focus questions

Using the same hypothetical topic, how might we frame some focus areas and guiding focus questions?

Remember, there are almost an unlimited number of ways that you could go about this and in practice, what we do here would be informed by our research and analysis (discussed further below).

OFFICIAL

Example 2 - Sample answer

This investigation will examine whether Agency X's approach to providing people with a physical disability access to its in person services is **reasonable** and **lawful**.

Focus Areas	Guiding Focus Question
Communication	Is Agency X reasonably communicating to the public about access options to in person service locations?
Policies	Does Agency X have reasonable policies in place to assist persons with a physical disability access in person services?
Lawfulness	To what extent is Agency X legally facilitating in person services for persons with a physical disability ?

OFFICIAL

How do we develop these things in practice?

To develop an investigation scope, which as we know, includes the investigation objective, the focus areas and the guiding focus questions, we will necessarily have to undertake **research** and **analysis**.

As indicated earlier, the extent of our work here will be dictated by our topic. For example, if the topic leaves open which agencies could be included as the investigative subjects (i.e. it does not nominate any), we will need to determine this.

OFFICIAL

What are some core research activities?

Researching will generally involve the following types of activities:

- identifying complaint trends and themes (who is complaining and what are they complaining about in relation to the topic?)
- identifying what, if anything, the Office has previously said about the topic (have we previously investigated and if so, what did we find?)
- identifying key academic and external research (what has been said?)
- identifying applicable legislation and case law (what does the law say about the topic?).

OFFICIAL

Example 3 – Weaponising Child Support

In developing our investigation scope for Weaponising Child Support, a recent own motion investigation, we had regard to, for example:

- academic research from Swinburn University
- an investigative report from the Tax Ombudsman
- our complaint data
- an inquiry report from a Parliamentary Joint Committee
- the Guides to Social Policy Law
- Services Australia's webpages.

OFFICIAL

When researching, what should we be thinking abut?

While undertaking research activities, we should be considering the following questions (i.e. important considerations):

- what is the specific administrative action that we want to investigative?
- what is (or might be) the problem and what could be a proposed solution?
- what are the key areas of administrative action that might be causing the problem?
- what can we realistically deliver within six-months, from start to finish?

OFFICIAL

What does this mean taken together?

Start **Finish**

Developing the investigation objective, focus areas and guiding focus questions

by **using** and **analysing** …

The results of our research activities and the answers to our important considerations

OFFICIAL

COMMONWEALTH OMBUDSMAN

Investigations Policy – *Ombudsman Act 1976 (Cth)*

ENDORSED SEPTEMBER 2025

About this document	
Purpose	This policy is a high-level description of how the Office of the Commonwealth Ombudsman conducts investigations and is intended to guide staff conducting investigations.
User/s	While the principles in this policy apply to all staff conducting investigations, it specifically covers investigations using the powers under the *Ombudsman Act 1976 (Cth)* outlined in the Appendix (including in the Commonwealth, DFO, PIO, OSO, PHIO, NSO and VSLO Ombudsman jurisdictions) and our functions as the Commonwealth NPM under the OPCAT. See section 2.1 ('Scope') for further details.
Publication/release to other sites	This Policy is being released to the VOLT platform, which is internal to the Office of the Commonwealth Ombudsman. Version 2.1 of this Policy will also be published under the Office of the Commonwealth Ombudsman Information Publication Scheme; otherwise, this Policy is not being published on an external website and is not intended for external publication.
Outcome	This policy promotes consistency and best practice in conducting investigations under the *Ombudsman Act 1976* (Cth).
Version number	2.1
Consultation	Director, ACT Strategy & Inspector Director, Strategic Insights Director, Policy Director, ACT & Commonwealth Investigations Director, Early Resolution Director, Complaints Assessment

OFFICIAL

	Director, Student Redress Director, Industry Investigations Director, OPCAT and Detention Monitoring Director, LEIO Director, PID Director, Legal Director, NSO Complaint Investigations Director, NSO Strategic Investigations
Approved/endorsed by	Iain Anderson, Commonwealth Ombudsman
Date approved/endorsed	August 2023 (Version 1.0) February 2024 (Version 1.1) September 2025 (Version 2.0) October 2025 (Version 2.1)
Next review date	October 2026
Contact team	Strategic Investigations 1, Investigations Branch Strategic Investigations 2, DIAL Branch

VOLT-2056524499-435

OFFICIAL

Contents

OFFICIAL

OFFICIAL

1 Purpose

This high-level description of how the Office of the Commonwealth Ombudsman (the Office) conducts investigations is intended to guide staff conducting investigations.

2 Introduction

The explanatory memorandum to the Ombudsman Bill 1976 describes the primary function of an Ombudsman as 'to investigate complaints made to him about administrative actions of officials'. While the legislation governing the Commonwealth Ombudsman (the Ombudsman) has been amended since and the Office's jurisdiction and functions have expanded, the Office's core function remains investigating administrative actions, particularly those complained about by the public.

Under the *Ombudsman Act 1976* (Cth) (the Act), the Ombudsman is empowered to investigate administrative action by a Department, a prescribed authority[1] or other entity prescribed by the Act.[2] The Ombudsman can investigate either in response to a complaint received or initiate an investigation on their own motion (referred to as Own Motion Investigations, or OMIs).[3] In practice, OMIs are generally conducted into systemic issues. The concept of 'administrative action' is not defined and covers a broad range of activities – for example, the decisions or actions of individual officers or implementation of departmental policies. The Act also empowers the Ombudsman to consider the policy or legislation that enabled the administrative action under investigation and, if the requirements of the Act are met, recommend that the legislation or policy should be altered.

The Ombudsman is an independent authority and is not subject to government direction. The Ombudsman can choose what to investigate and how an investigation should be conducted, as well as what conclusions are drawn. The Ombudsman is bound by the Act but, subject to that Act, can conduct investigations 'in such manner as the Ombudsman thinks fit'.[4]

This policy outlines Better Practice Principles in Chapter 3 that apply to all investigations. It then provides an overview of how investigators should conduct both systemic investigations either initiated via own motion or from systemic issues identified through 1 or more complaints (in Chapter 4) and investigations into discrete issues raised in a complaint (in Chapter 5).

Because the Ombudsman has statutory authority to decide how an investigation should be conducted this policy does not comply with all aspects of the Australian Government Investigations Standard 2022 (AGIS). The purpose of this policy is to comply with the intent of

[1] 'Department' and 'prescribed authority' are defined under s 3 of the Act.
[2] For example, Australia Post or registered Private Postal Operator in the postal industry Ombudsman jurisdiction (s 19M(3)); or a private registered provider within the meaning of the *Overseas Students Act 2000* in the Overseas Students Ombudsman jurisdiction (s 19ZJ(3)).
[3] For the Ombudsman's Commonwealth jurisdiction, see s 5(1)(a) and s 5(1)(b) of the Act; for further information about other jurisdictions, see the table at Appendix A.
[4] Section 8(2) of the Act.

OFFICIAL

AGIS and where applicable, the policy highlights what the Office has established to achieve the same objectives as AGIS.

2.1 Scope

This policy covers investigations conducted by the Ombudsman under the Act using the powers outlined in Appendix A. This includes investigations in the Commonwealth, Defence Force (DFO), Postal Industry (PIO), Overseas Students (OSO), Private Health Insurance (PHIO), VET Student Loans (VSLO) and National Student (NSO) Ombudsman jurisdictions; and visiting places of detention and other functions relating to our role as Commonwealth National Preventive Mechanism (NPM) under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

The principles in this policy, particularly those set out in sections 3, 4.6, 4.8 and 4.9, should be applied in any investigation the Office conducts. However, this policy does not cover in detail the legislative processes and powers for investigations conducted under the *Public Interest Disclosure Act 2013*; assessing VET FEE-HELP debts under the VET FEE-HELP Redress Measures; responding to reports of serious abuse in the Australian Defence Force; or inspecting law enforcement and integrity agencies' use of covert and intrusive powers and oversight of coercive examination powers. Further, while the foundational principles apply equally to the ACT Ombudsman investigations, the detail on powers does not cover the functions of the Ombudsman's role as ACT Ombudsman, including the ACT Ombudsman's functions relating to the OPCAT; own motion investigation power; complaint investigation power; the Reportable Conduct Scheme; our oversight of the ACT Judicial Council; or the Office's role under the *Freedom of Information Act 2016* (ACT).

3 Better Practice Principles

The Office's purpose is to provide assurance to the Parliament and the public that the agencies we oversee act with integrity and treat people fairly, and to influence enduring systemic improvement in public administration. The way we conduct investigations can impact the way the Office is perceived, the outcomes we achieve and the effectiveness of our influence.

Officers conducting an investigation are responsible and accountable for their decisions and actions and should have regard to the below Better Practice Principles. Investigators exercising delegated powers should remember their responsibility to exercise judgement and consider the merits of the case so as to not apply any aspect of this policy inflexibly.

It is also important that investigators have an investigative mindset.[5] This means they:

- approach their work with curiosity, critical thinking and tenacity
- utilise all available resources and investigative strategies to make reasonable, proportionate and necessary decisions
- are respectful in all dealings with internal and external stakeholders, act with integrity at all times and demonstrate commitment and accountability.

[5] See AGIS section 1.4.

OFFICIAL

Under the AGIS, investigators must also hold (or obtain within a reasonable timeframe) a vocational education and training qualification in investigations, unless another qualification, internal training or other recognition of prior learning is determined as equivalent.[6] As the Ombudsman has statutory authority to determine how an investigation is conducted, staff qualifications and equivalent experience are considered when allocating staff to perform investigation work.

3.1 High ethical standards and responsibility

The Office promotes high ethical standards and behaviours for its staff. Investigators must conduct investigations in accordance with the Australian Public Service (APS) Values and Code of Conduct as set out in the *Public Service Act 1999* (Public Service Act), the Act and related legislation.

The Australian Public Service Commission's Ethics Advisory Service is available to all APS employees who wish to discuss and seek advice on ethical issues that occur in the workplace.

Officers must also operate in accordance with the Office's Accepting Gifts, Benefits or Hospitality Policy, which provides guidance to prevent an actual or perceived conflict of interest where an official is offered a gift, benefit or hospitality from a third party in the course of official business.

3.2 Flexibility

A one-size-fits-all approach will not yield the best outcomes for the varied and complex issues faced in the broad range of investigations undertaken by the Office.

To ensure the Office effectively and efficiently uses its wide range of investigation tools and powers to deliver good investigation processes and outcomes, investigators must have a strong knowledge of the powers and options available. Such knowledge, and the confidence to utilise these tools, will enable the Office to engage flexibly and creatively with the investigation process and ensuring that investigations do not take longer than they need to.

Using the Office's broad range of powers effectively allows us to be more responsive and influential in engaging with agencies, seeking solutions, removing roadblocks and delivering fair and timely outcomes from investigations and to influence improved public administration.

3.3 Lack of bias and conflict of interest

The Office is independent and impartial. We do not represent complainants or agencies but rather conduct impartial and independent investigations of administrative decisions and actions. Our actions and decisions should be free from actual or perceived bias and conflicts of interest.

If a conflict of interest exists but is not identified and effectively managed, this poses a risk to the integrity of an investigation. Examples of conflicts of interest relevant to an investigation include, but are not limited to, where the investigator previously worked at the Department subject to the

[6] See AGIS section 1.3.

OFFICIAL

Office's investigation or where the investigator has a social or personal relationship with a staff member from the other agency engaging with the Office in relation to the investigation.
A conflict of interest can exist at the start of an investigation or emerge during an investigation. Where a conflict of interest is realised, it must be managed in accordance with the Office's Conflict of Interest Guidelines.

The Public Service Act requires us to 'take reasonable steps to avoid any conflict of interest (real or apparent)' in connection with our duties.'[7]

The Australian Public Service Commission Guidelines on official conduct provide guidance on pecuniary (financial), personal and other interests.

3.4 Secure and confidential information and asset handling

Secrecy provisions and safeguards in the Act provide assurance to agencies when responding to our requests for information, fostering cooperation, trust and strong working relationships with the agencies we oversee.

When conducting an investigation, we may request information from an agency under s 8(3) of the Act,[8] which permits the Ombudsman to obtain information from such persons, and make such inquiries, as he or she thinks fit. The Act provides certain protections for agencies that disclose information to the Office for the purpose of our investigation.[9] In certain circumstances,[10] however, we may use our formal power under s 9 of the Act[11] to compel the production of information or documents, or individuals to attend before the Ombudsman and answer questions. The Act provides additional protections for agencies or persons responding to a formal notice to produce, including assurance to agencies or persons when providing particularly sensitive documents such as Cabinet-in-confidence or documents protected by legal professional privilege.[12]

Confidentiality obligations imposed by the Act apply to information the Office obtains for the purpose of an investigation, which requires that our investigations 'be conducted in private'.[13] It is a criminal offence to divulge or communicate information obtained during the course of an investigation, except 'for purposes connected with the exercise of the powers and the performance of the functions of the Ombudsman' or where other legislative exceptions apply.[14]

---

[7] See s 13(7)(a) of the *Public Service Act 1999*.
[8] Section 8(3) of the Act does not apply to PHIO or NSO investigations. For PHIO, see instead s 20T (investigation function) and ss 20ZD and 20ZE (information gathering tools) of the Act; for NSO see instead s 21AT (investigations) and ss 21AZ and 21AZA (information gathering) of the Act.
[9] See ss 8(2A), (2B), (2C), (2D), and (2E).
[10] See section below 4.5.2 Further methods for obtaining information, in particular "Power to issue notices to attend interview or seek information – formal".
[11] Section 9 does not apply to PHIO or NSO investigations. See instead s 20ZE and s 21AZA of the Act (respectively).
[12] See ss 9(4), (5), and (5A). See s 21AZA for information on protections provided for a person responding to an NSO information request
[13] Section 8(2) of the Act. See s 21AU for in private requirements for NSO investigations
[14] Section 35 of the Act.

OFFICIAL

The explanatory memorandum to clause 35 of the Ombudsman Bill 1976 explains the importance of this statutory obligation of confidentiality:

> *'It is essential to the success of the operations of an Ombudsman that he [sic] should have the greatest possible access to departmental and other official files relating to the matters under investigation. The complement to this is that officials should be able to rely on information they give to the Ombudsman and his staff being kept confidential except to the extent to which it must be disclosed for a report by the Ombudsman to be meaningful. The purpose of these sub-clauses is to put the Ombudsman, the Deputy Ombudsmen, the staff of the Ombudsman and others who operate under his authority under obligations of secrecy in respect of information obtained by them under the Act.'*

As a further safeguard, s 9(3) of the Act permits the Attorney-General to issue a certificate on public interest grounds certifying that the Ombudsman is not entitled to require a person to furnish particular information.

See Section 4.5.2 about 'Further methods for obtaining information'.

The Office is committed to the principles outlined in the *Privacy Act 1988* (Privacy Act). The Privacy Act regulates the collection, use, storage and disclosure of personal information about individuals.

The Office is subject to the *Freedom of Information Act 1982.*

The Office values its reputation and is responsible for protecting its information, personal and physical assets. Investigators are expected to be aware of, and abide by, security guidelines always.

When scoping an investigation, investigators must consider the highest security classification of information that officers undertaking the investigation may be required to handle and ensure staff security clearances are current and appropriate.

The Policy 8 – Sensitive and classified information | Protective Security Policy Framework specifies how to correctly assess the sensitivity or security classification of their information and adopt marking, handling, storage and disposal arrangements that guard against information compromise.

3.5 Accurate record keeping

When conducting an investigation, investigators must comply with the Office's Information Management Policies, which are critical to ensuring transparency, accountability and managing reputational risk.

OFFICIAL

The [Records Authority Office of the Commonwealth Ombudsman Policy][15] provides specific information about the requirements for keeping records for the core business areas, including investigations.

The Office values its information assets as critical to its business activities, decision making, service delivery, accountability, and business continuity. It is committed to effective information and records management that meet its business needs, accountability requirements and stakeholder expectations. As a public administration oversight and educative body, there is an onus on the Office to maintain excellent records and demonstrate a high standard of information management.

The APS Values and Code of Conduct in practice require employees to 'document significant decisions or actions consistent with the *Archives Act 1983* and to a standard that will withstand independent scrutiny'. The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) requires the Australian Government to provide meaningful information to the Parliament and the public and to accountably govern and manage public resources, including information assets. These Acts are part of a legislative framework that ensures that the Australian Government is accountable for its performance and the Australian community can understand why decisions are made or actions taken.

To maintain impartiality and independence, good decision-making and record-keeping processes during any investigation are critical. Every decision made about the investigation must be documented, whether by appropriate action in Resolve, electronic note, email, executive minute or brief or central decision register and stored in Objective. The record should explain who made the decision, when the decision was made, the reason for the decision, the context of the decision and the decision itself, including actions required to implement it.[16] This is particularly important when analysing information or views provided by an agency in response to a request for information or comments in response to procedural fairness (e.g. comments on a draft report). Documented decisions on our assessment of the agency's view, reasons for our assessment and what action to take, reaffirm our independence and ensure the decisions are transparent, justified, independent and stand up to review or scrutiny.

When conducting own motion investigations, investigators must maintain a log of all communications with the agency/department under investigation (this was an express recommendation of the Robodebt Royal Commission for our Office.) The log should be a 'live' document stored in Objective which records the date, time, people involved and details of each communication with the agency or department. Links to further file notes or documents stored in Objective can also be included in the log. A template has been developed for the communications log and can be found here. Guidance on completing the communications log is available here.

Similar to own motion investigations, detailed recordings of interactions between parties of complaints investigations should be maintained. Complaint investigations are conducted using the Office's complaint management software. In this instance, investigators do not need to maintain a separate log but must record every interaction using the appropriate tool in the

[15] Currently under review.
[16] AGIS – 3.2.3.

OFFICIAL

software with supporting evidence (e.g. in the current software Resolve, using the appropriate action to record evidence of a phone conversation).

See also Section 4.10, 'Procedural Fairness'.

3.6 Proactive risk management

The Office is committed to managing risk. To meet this commitment, risk analysis and mitigation must be properly integrated into the Office's day-to-day functions and responsibilities, including our investigations. All staff are responsible and accountable for managing risk insofar as is reasonably practicable within their area of responsibility.

Refer to the Office's Risk Management Framework and Risk Matrix.

3.7 Effective and independent engagement

Effective and regular engagement with an agency is instrumental to the success of an investigation and the Office's ability to influence improvement. However, when engaging with agencies, it is important to remember that the Ombudsman is an independent authority. The Ombudsman can choose what to investigate and how an investigation should be conducted.

The Ombudsman may consult with the agency or organisation during any phase of the investigation. To avoid conflicts of interest, when establishing our contact point at an agency, the Office should make the agency aware that responses to our investigations should not be led or overseen by individuals or divisions with direct involvement in matters under investigation. This is consistent with the Government Response to the Royal Commission into the Robodebt Scheme that departmental secretaries and chief executive officers should ensure responses to Ombudsman investigations are not led or overseen by individuals or divisions directly involved in matters under investigation.[17]

- In the planning phase we **may** choose to share an investigation scope or request for information with the relevant agency or organisation if we think it will assist us in our investigation, for example if we need the agency's subject matter knowledge to finalise the scope. **We have no obligation to do so**. In most cases it will be preferable to simply settle the scope ourselves and then request (or require) the provision of specified information and documents, rather than risking being perceived to be allowing the agency to influence the scope of our independent investigation.
- During the information gathering and analysis stage we will request information from the agency or organisation to assist the Ombudsman to draw conclusions and make findings.
- At the end of the information gathering and analysis phase, the Ombudsman may decide to prepare a report. If a report is prepared, we will provide a non-editable copy (i.e. PDF) of the draft report to the agency or organisation and

[17] Government Response | Royal Commission into the Robodebt Scheme - see Recommendation 21.3.

OFFICIAL

invite them to comment on any apparent errors of fact as well as a formal response to the recommendations.

- The draft report should be accompanied by a clear statement alerting the agency or organisation to the confidentiality of the report and that it should not be shared outside their agency or organisation, or within their agency to staff without a need to know, without first consulting with our Office. The statement may permit sharing the draft report with an agency or organisation's audit committee.

It is important to keep accurate and comprehensive records of engagement with agencies as we may seek to rely on the information in drawing conclusions at the end of the investigation. For example, minutes should be taken of meetings with agencies, recording the attendees, matters discussed and meeting outcomes. It is good practice to send the minutes to the agency as an opportunity for the agency to confirm the accuracy of the details in the meeting record. Similar records should be kept of telephone calls with agencies. It is generally not necessary to ask agencies to confirm records of telephone calls, although if the discussion is critical to the investigation, it may be desirable to do so.

As mentioned in the previous section, when conducting own motion investigations, investigators should maintain a log of all communications with the agency/department under investigation. The log should be a 'live' document stored in Objective which records the date, time, people involved and details of each communication with the agency or department. Links to further file notes or documents stored in Objective can also be included in the log. For complaint investigations, all communications and supporting documents must be stored and recorded in the Office's complaint management software (currently Resolve).

See also section 4.6, 'What options do we have to address issues we are unable to resolve with an agency during an investigation?' and section 4.10, 'Procedural Fairness'.

3.7.1 Engagement with government agencies as stakeholders in Industry jurisdictions

The Office, in performing its private entity oversight functions, should also maintain regular engagement with government agencies as joint stakeholders in monitoring concerns that arise in complaints about private entity providers. For example, in the PHIO jurisdiction, the Office should regularly engage with the Department of Health, and in the NSO and OSO jurisdiction, the Office should regularly engage with the Department of Education.

This is engagement of a different kind, as the purpose is not to support the Office's role in overseeing the actions or decisions of Commonwealth government agencies. The purpose may be for the Office to share issues that agencies may wish to respond to with legislative change (consider consulting the Policy team) or information campaigns, and for agencies to share information that may be relevant to the Office's operations in handling complaints about an industry.

In engaging with government agencies, the Office should not:

- disclose information about a complainant or private entity provider, unless compliant with all relevant provisions of the Act, nor

OFFICIAL

- make comments suggesting the Office endorses administrative or other action the agency has taken, in case the Office later subjects the agency to scrutiny with respect to these actions.

3.7.2 Engagement with non-government bodies as stakeholders

The Office may also engage with non-government bodies as stakeholders in matters that are relevant to investigations. For instance, we may engage with student groups in the NSO or OSO jurisdictions, and the Ombudsman regularly engages in civil society roundtables with non-government bodies such as, for example, aged care advocacy peak bodies. Engagement with civil society provides a critical perspective and ensures the Office is both aware of and understands the issues affecting the community.

In such meetings, we may share general, de-identified information with these bodies about issues we are seeing in our operations, and the body may provide us with information about issues they are seeing in their sector.

When engaging with non-government bodies, the Office should not:

- Disclose identifying information about a complainant, government or non-government body or any investigation that has not otherwise been made public, unless in accordance with all relevant provisions of the Act.
- Suggest that the Office agrees or does not agree with a position taken by a non-government body relating to an issue we have not otherwise made a public statement on, as we must remain impartial.
- Suggest we will or will not investigate a particular issue or topic, as investigations must be conducted in private unless disclosing information under s 35A of the Act, and the decision to investigate on the Ombudsman's own motion rests with the Ombudsman, Deputy Ombudsman and First Assistant Ombudsman.

OFFICIAL

4 Systemic investigations[18]

Research, scoping and planning (section 4.1)

Ombudsman approval of scope and use of powers (section 4.1, 4.2)

Initiation of the investigation – formally notifying the agency (section 4.3)

Information gathering options (e.g. RFIs, site visits, interviews, formal inspections and requests – section 4.4 & 4.5)

Analysis of information received (section 4.7)

Development of findings from the investigation (section 4.7)

Investigation outcomes (section 4.7– 4.10)

Publication (if the Ombudsman is of the opinion this is in the public interest – section 4.11)

Glasshouse review (where recommendations have been made – section 4.13)

Monitoring of implementation of recommendations (where recommendations have been made – section 4.14)

Note: *This process is not necessarily linear, and investigations can move back and forward through various stages multiple times throughout the course of an investigation. In particular, the Office engages with the agency regularly throughout the entire process, and the investigator(s) engage regularly with the Ombudsman throughout the process.*

The Office provides independent oversight of public administration. As part of this role, we may identify systemic issues in a complaint that extend beyond the individual issue or instance of that issue raised by a complainant. Complaints are an excellent source of information regarding systemic issues; we may identify trends across several complaints, or spot issues in environmental scanning, that suggest that beyond any one individual instance of an issue is a root cause. The Office can investigate these systemic issues either in response to an individual complaint about the issue, or if there is no individual complaint to investigate, the Ombudsman can use the OMI power to initiate an investigation.

Ombudsman office staff are responsible for assisting the Ombudsman to conduct each systemic investigation. Each systemic investigation will differ depending on the complexity of

[18] Investigations conducted into systemic issues identified either in response to an individual complaint or several complaints, or initiated by the Ombudsman's own motion.

OFFICIAL

issues under investigation. We can conduct short and targeted systemic investigations (for example into a single instance of agency conduct, or a specific issue within a program administered by a specific agency) as well as longer and more complex systemic investigations (for example into issues underlying a program or issues spanning across multiple agencies). However, the main phases of systemic investigations outlined in this chapter remain the same, no matter the size and scope of the investigations.

4.1 Before commencing a systemic investigation

Prior to commencement, all systemic investigations, whether straightforward or complex, require a planned and structured approach. Having a clear plan at the outset helps us to investigate effectively and efficiently. It also means we can come back and check to ensure that all key elements of the investigation have been properly accounted for. While our understanding of issues can evolve in the course of an investigation such that issues initially thought important might turn out to be less so, where this occurs we must still ensure we have a clear record of why we have decided to downgrade such issues and not investigate them to the extent initially planned. It may also be important to explain any such decision publicly, at the end of the investigation.

Prior to initiating a systemic investigation, investigation teams will research, scope and plan the investigation. Investigations teams should take a risk-based approach to inform how the investigation will be conducted and what investigative strategies and methods will be applied having regard to considerations including our Office's previous engagement with the relevant agency, the nature of the issue under investigation (including whether the issue is ongoing or historical) and the objectives of the investigation (see section 4.4, 'Requesting information from agencies' and section 4.5, 'What options are available when we are unable to resolve issues with an agency during an investigation?')

The investigation scope must show:

- the objective of the investigation
- the legislative power we are using to investigate
- key guiding questions we seek to answer by investigating
- who is responsible for conducting the investigation, and
- targeted timeframes for the investigation.

To inform the development of the project scope, the investigations team may need to meet with the relevant agency.

After completing the project scope, staff will complete a project initiation plan which sets out, among other things: project deliverables, assumptions, constraints, key stakeholders, what is out of scope for the investigation, project milestones, timeframes, risk management and financial estimates. These documents will inform the development of the methodology for the investigation.

OFFICIAL

If needed, the Ombudsman also has formal powers under s 7A of the Act[19] to conduct preliminary inquiries to determine whether or not the Ombudsman is authorised to investigate the action or, if authorised, determine whether or not the Ombudsman wishes to investigate the action.

In certain circumstances, the Ombudsman also has the power to conduct joint investigations, including with the AFP or a State police force, state Ombudsman and other investigative authorities.[20]

The investigation team should liaise closely with the Ombudsman throughout the investigation, including during project scoping and initiation. If the investigation results in a report under s 15 or equivalent reporting provision[21] (see section 4.7, 'Outcomes of a systemic investigation'), the Ombudsman must personally consider and approve all findings and recommendations. Close and regular engagement with the Ombudsman ensures that the Ombudsman is aware of and can influence the direction of the investigation and preliminary findings as they are made.

The Office has templates for the project scope and project initiation plan (available here).

4.1.1 Considering diverse perspectives and vulnerability indicators

Diverse perspectives refer to the different worldviews, experiences and values held by people in Australia based on their identity, background and circumstances. Examples of key diverse groups in Australia include but are not limited to: First Nations people, culturally and linguistically diverse communities, people with disabilities, LGBTQIA+ people, regional and remote communities and seniors.

Vulnerability indicators are measures or signs used to identify individuals or groups at higher risk of disadvantage, exclusion or harm. Examples of vulnerability indicators include but are not limited to: housing insecurity or homelessness, low education attainment, low income, unemployment or underemployment, mental health issues, digital exclusion and family violence.

Considering diverse perspectives and people with vulnerability indicators during the scoping phase of an investigation is essential to ensure investigations are fair, inclusive and effective. Vulnerability or diverse groups can often face systematic barriers that may not be visible from dominant viewpoints and including them can lead to more comprehensive insights into systemic issues. Teams must track these systemic issues identified in the investigation using Issues of Interest on Resolve.

- When commencing an investigation, consideration should be given to how the matter under investigation impacts people with diverse perspectives and/or vulnerability indicators. For example: Does this matter impact the service delivery of government services to people with diverse perspectives or vulnerability indicators? Or is it likely to? If so, how?

[19] Section 7A of the Act does not apply to NSO Investigations (see s 21AZ) or PHIO investigations.
[20] Section 8(12), s 8A, s 8B, s 8C and s 8D of the Act.
[21] The reporting provisions are: s 15 (Cth & DFO), s 19V (PIO), s 19ZQ (OSO), ss 20R & 20V (PHIO), s 20ZV (VSLO), s 21AV (NSO) – see "Reporting" under 4.5 What options are available when we are unable to resolve issues with an agency during an investigation? for more information.

OFFICIAL

- Does this matter impact how people with diverse perspectives or vulnerability indicators engage with government? Or is it likely to? If so, how?
- Does this matter disproportionately or significantly impact a particular group of people with diverse perspectives or vulnerability indicators? If so, how?

Types of information that may assist investigation teams to answer the questions above include[22]:

- Details in the individual complaint.
- Statistical trends in the complaints.
- Observations and questions determined by staff in their broad consideration of the issue.
- Issues raised with the Ombudsman through complaints or stakeholder engagement.
- Questions or matters identified through the consideration of s7A materials.
- Open source information (e.g. media report, social commentary).
- A likeliness that these issues may be relevant.

This consideration should be documented in the investigation plan, including where this was considered but ultimately determined that no specific consideration was required in the investigation.

If the matter being investigated is found to have impacts on people with diverse perspectives and vulnerability indicators, section 4.5 sets out how to request information from agencies relevant to the investigation.

At times, considering diverse perspectives can identify that the matter being investigated could potentially have impacts on people with diverse perspectives and vulnerability indicators, but it is unclear. A contributing factor that can complicate considering whether or not there is an impact is that complaints data may be skewed, with diverse groups not always as aware of how to engage their right, or more likely to encounter barriers, to raising a complaint with an Agency or with the Office.

When it appears possible but unclear whether diverse groups are affected by the matter under investigation, it is important to plan the investigation's approach and information questions accordingly.

In other instances, it may be appropriate to research expert opinion and best practice and/or formally engage an expert to inform our understanding of best practice or impacts.[23]

[22] During the scoping phase, investigation teams do not require statistical evidence to establish factors that may warrant further consideration in the investigation.
[23] Consideration should be given to non-disclosure obligations, especially when engaging an external expert. Additionally, any associated costs will require appropriate delegate approval.

OFFICIAL

4.1.2 Performance

Our Office's planned performance under the PGPA Act as reported in the Portfolio Budget Statements, our corporate plan and the performance framework 2024–25 has two KPIs that relate to own motion investigations:

- Percentage of recommendations in reports accepted by agencies and organisations is 75% or above
- The number of reports published per year (no target).

Each branch reports quarterly on performance against these criteria to the Executive, and annually to the public in an annual performance statement in the Ombudsman's Annual Report.

4.2 Power to initiate an own motion investigation

While systemic issues may be investigated in response to an individual complaint, s 5(1)(b) of the Act states the Ombudsman 'may, of his or her own motion, investigate any action, being action that relates to a matter of administration, taken either before or after the commencement of this Act by a Department or by a prescribed authority'. Each of the DFO, PIO, OSO, PHIO, VSLO and NSO jurisdictions have an own motion investigation power, set out in **Appendix A**.

It is Office policy that only the Ombudsman, the Deputy Ombudsman and, the NSO First Assistant Ombudsman, can approve the initiation of an OMI.[24] The Ombudsman or Deputy Ombudsman's decision to begin an OMI under the Act must be clearly documented, with legislative references.

Defence Force Ombudsman OMIs

Part IIA of the Act establishes the functions, powers and duties of the Defence Force Ombudsman. The functions of the Defence Force Ombudsman are to investigate complaints made under the Act and perform such other functions conferred by the Act, the *Ombudsman Regulations 2017* (the Regulations), or another Act or regulations made under another Act.

Such other functions include investigating complaints and initiating an investigation on the Ombudsman's own motion. The Defence Force Ombudsman can investigate a matter of administrative action that is related to the service of a member of the Defence Force or that arises in consequence of a person serving or having served in the Defence Force.[25] Under the Regulations, the Defence Force Ombudsman also has the function to inquire into matters relating to complaints of abuse, including procedures relating to making and responding to such complaints and the effectiveness and appropriateness of those procedures.[26]

Postal Industry Ombudsman OMIs

Part IIB of the Act establishes the functions, powers and duties of the Postal Industry Ombudsman. The functions of the Postal Industry Ombudsman are to investigate complaints

[24] In some instances, this is also limited by the Office's internal delegations.
[25] Section 19C(3) of the Act.
[26] Regulation 14(1)(c) of the Regulations.

OFFICIAL

made under the Act, and perform such other functions conferred by the Act, the Regulations, or another Act or regulations made under another Act.

The Ombudsman may, on his or her own initiative, investigate action taken by Australia Post or a registered Private Postal Operator with respect to the provision of a postal or similar service.[27]

Overseas Student Ombudsman OMIs

Part IIC of the Act establishes the functions, powers and duties of the Overseas Students Ombudsman. The functions of the Overseas Students Ombudsman are to investigate complaints made under the Act, to give private registered providers advice and training about the best practice for the handling of complaints made by overseas students; and perform such other functions conferred by the Act, the Regulations, or another Act or regulations made under another Act.

The Ombudsman may, on his or her own initiative, investigate action taken by a private registered provider in connection with an overseas student, an intending overseas student, an accepted student, or a former accepted student, within the meaning of the Overseas Students Act.[28]

Private Health Insurance Ombudsman OMIs

Part IID of the Act establishes the functions, powers and duties of the Private Health Insurance Ombudsman. The functions of the Private Health Insurance Ombudsman are to deal with complaints made under the Act, to investigate complaints made under the Act, to publish the State of the Health Funds Report, to collect and publish information about Health Insurers, to publish information about complaints, to perform various reporting and recommendatory functions to the Health Minister or Health Department, to promote the role, and to perform any other incidental functions.

The Private Health Insurance Ombudsman is unique in that it can handle complaints from insured persons, private health insurers, health care providers and insurance brokers against private health insurers, health care providers and insurance brokers.

The Ombudsman may, on his or her own initiative, investigate the practices and procedures of a private health insurer or a private health insurance broker, or a health care provider together with an investigation of a private health insurer.[29]

VET Student Loans Ombudsman OMIs

Part IIE of the Act establishes the functions, powers and duties of the VET Student Loans Ombudsman. The functions of the VET Student Loans Ombudsman are to conduct investigations, and make recommendations and other reports in relation to VET loan assistance and compliance by VSL providers with relevant legislation; to give VSL providers advice and training about the best practice for the handling of complaints made by VSL students about their loans; to develop and review a Code of Practice for VSL providers, and perform such other

[27] Section 19M(2)(b) of the Act.
[28] Section 19ZJ(2)(b) of the Act.
[29] Section 20T(1) and (2) of the Act.

OFFICIAL

functions conferred by the Act, the Regulations, or another Act or regulations made under another Act.

The Ombudsman may conduct an investigation on his or her own initiative.[30]

National Student Ombudsman OMIs

Part IIF of the Act establishes the functions, powers and duties of the National Student Ombudsman. The National Student Ombudsman's functions are to deal with complaints made under the Act by higher education students about registered higher education providers by referral, investigation, restorative engagement or alternative dispute resolution; to report and make recommendations under the Act; to give higher education providers advice and training about the best practice for the handling of complaints made by students; and perform such other functions conferred by the Act, the Regulations, or another Act or regulations made under another Act.

The Ombudsman may, on their own initiative, investigate action (other than an excluded action as defined in the Act) taken by a higher education provider.[31]

Commonwealth National Preventive Mechanism

In 2019, the Ombudsman Regulations 2017 were amended to confer on the Ombudsman the functions of NPM Body[32] and NPM Coordinator.[33] Although the powers and protections provided in the Ombudsman Act and Regulations do not fully address all of OPCAT's requirements for an NPM, they do enable the Office to conduct preventive visit activity to places of detention in furtherance of the OPCAT mandate. The Commonwealth NPM team conducts their visit activity under the auspices of an own motion investigation under the Ombudsman Act, and may use other powers in the course of carrying out their duties.

4.3 Commencing a systemic investigation

As with all investigations under the Act, before starting the investigation the Ombudsman must notify the principal officer of the agency under s 8(1) of the Act[34] that the Ombudsman intends to investigate the action.

When commencing an investigation, we should notify the agency that we expect any responses to our investigations will not be led or overseen by individuals or areas with direct involvement in the matters under investigation and request an appropriate contact point with that in mind.

Once the agency receives this notice, the investigation is considered to have commenced and the confidentiality protections for agencies are enacted (see 3.4 – Secure and confidential information and asset handling). The Office may have an arrangement with an agency under

[30] Section 20ZO of the Act.
[31] Section 21AT(1)(b) of the Act.
[32] Regulation 16 of the Regulations. The 'NPM Body' function is commonly referred to as the 'Commonwealth NPM', noting its scope of activity relates specifically to places of detention under the control of the Commonwealth.
[33] Regulation 17 of the Regulations.
[34] Section 8(1) does not apply to PHIO investigations (see instead s 20T of the Act) or NSO investigations (see instead s 21AU(2)).

OFFICIAL

the Ombudsman Act which governs contact; if so, the requirements of this arrangement should be followed when notifying the agency of our intention to investigate.[35]

4.4 Understanding an agency's automated systems

Automated systems can support timely, efficient and consistent decision-making and can be used to assist in all or part of a decision-making process. They can range from a simple rules based system (for example a system which calculates a rate of payment in accordance with a formula set out in legislation) through to more specialised systems which use automated tools to predict and deliberate, including through the use of machine learning.[36] The use of automated systems for decision-making is growing across Commonwealth agencies and as with non-automated decisions, agencies need to ensure their automated decision-making (ADM) processes or their use of artificial intelligence comply with the principes of administrative law, as the risk of non-compliance can scale up errors and biases in ways that could cause real harm to people.

Gathering information about an agency's automated systems establishes the landscape for an investigation to identify agency decision-making processes that are partly or wholly automated and fall within the scope of the investigation. This information further helps investigators to determine if and how agencies are using ADM and to identify potential automated risks that may occur during the decision-making process. Risks arising from the use of automated systems include but are not limited to ADM processes not aligning to the intent of the legislation, privacy and confidentiality breaches, lack of transparency on how ADM is used and how the process works, and limited information available to those affected by decisions to seek review.

When commencing an investigation, consideration should be given to whether the agency uses automated systems including AI systems in any of the processes within the investigation scope to further inform our request for information from the agency. Reviewing an agency's AI transparency statement – a publicly available a statement outlining their approach to AI adoption – will help in this regard.

Investigators should consider the following:

- Is the use of automation lawful in the circumstances?
    - This will involve identifying the legislative authority for the action or decision and for the lawful automation of the action or decision.
    - This may also involve identifying whether the decision-making pathway involves the exercise of judgement or discretion. If it does, identify whether the agency obtained independent legal advice about whether the automation of discretions would be lawful and appropriate.

---

[35] Current arrangements are available here: Ombudsman agreements with agencies and entities Statement of Commitments | Commonwealth Ombudsman

[36] See 'What is an automated system?' in the Commonwealth Ombudsman Automated Decision-Making - Better Practice Guide 2025

OFFICIAL

- Does the use of automation comply with administrative law principles of fairness, rationality and transparency? For example:
  - Did the agency disclose to the impacted individuals that they were using automated systems to make the relevant decisions?
  - Can the agency explain how the relevant decision was made?
  - Does the use of automation result in unfair discrimination against individuals, communities or groups?
- Does the use of automation comply with privacy requirements and human rights obligations? For example, did the agency undertake a Privacy Impact Assessment?

Helpful references for investigators include:

- The Office's *Automated Decision-Making Better Practice Guide*: https://www.ombudsman.gov.au/__data/assets/pdf_file/0025/317437/Automated-Decision-Making-Better-Practice-Guide-March-2025.pdf
- The Digital Transformation Agency's *Policy for the responsible use of AI in government* which includes mandatory obligations for departments and agencies for accountable officials and transparency statements: https://www.digital.gov.au/policy/ai/policy
- An agency's AI transparency statement – which outlines their approach to AI adoption. You can find an agency's statement on their website.

4.5 Requesting information from agencies

When investigating, the Ombudsman has broad discretion over how an investigation is conducted and broad powers to request information.[37] Consequently, the Office has broad discretion over what sources of evidence to request, the questions to ask of an agency, and who to request the information from.

4.5.1 Written requests for information

Systemic investigations will generally include sending at least one written request to the agency for information. This is usually sent at the time of, or shortly after notifying the agency an investigation has commenced. If appropriate, an investigation could alternatively commence with a formal requirement (rather than a request) that the agency provide specified information and documents. While usually a formal legal requirement will only be issued if a request has not produced the requested material, if there are concerns about an agency's past conduct it may be appropriate that the investigation goes straight to formally legally requiring the production of materials. (See section 4.5.2 below on requiring production.)

The documents requested and questions asked are informed by the project scope and the background research performed before reaching the investigation initiation stage. Documents

[37] See ss 8(2) and 8(3) of the Act. Section 8(3) does not apply to PHIO investigations; see instead s 20T of the Act. Sections 8(2) and 8(3) do not apply to NSO investigations; see ss 21AU(2) and 21AZ for equivalent sections.

OFFICIAL

requested should also include information to assist investigators understand the agency's automated systems and their use of ADM or AI in relation to the project scope.

While any documents can be requested (including draft documents), examples include:

- Policy documents
- Internal correspondence
- Complaint records
- Legal advice (should also include copies of requests for legal advice, documents referring to requesting legal advice, drafts of legal advice, and all documents discussing or analysing legal advice. If draft legal advice was not finalised, we should ask for reasons why the draft advice was not finalised (as a matter of proper administration)
- Minutes relating to the action
- Notes of meetings
- Guidance documents, and
- Fact sheets.

The request for information should make it clear that full copies of the actual documents are requested (as opposed to extracts from documents).

Agencies are protected by the Act when providing information to the Office as part of an investigation (discussed at section 3.4). This supports agencies to provide sensitive documents, including legal advice, deliberations on policy decisions and records of senior members of staff, to the Office.

While there are no requirements for the format of a written request for information, it should reference the section of the Act (usually s 8(3) [38] or s 9(1)[39]) under which the Office is requesting information and include a timeframe for the agency's response. Templates for s 8 requests for information and OMI initiation notices can be found here.

Where the Ombudsman proposes to make a s 9(1) request, s 8(7A) of the Act requires the Ombudsman to inform the responsible Minister that the action is being investigated, if the Ombudsman has not previously done so.

The Act imposes a statutory duty on agency heads (e.g. departmental secretaries and agency chief executive officers) to ensure their department or agency uses their best endeavours to assist the Ombudsman in an investigation.[40] The Act also provides that officers must use their best endeavours to assist the Ombudsman in the performance of the Ombudsman's functions.

When an agency head or their officers use their 'best endeavours', we expect that organisations will[41]:

[38] Section 8(3) of the Act does not apply to PHIO or NSO investigations. See instead s 20T (investigation function) and ss 20ZD and 20ZE (information gathering tools) for PHIO, and s 21AZ (inquiries) for NSO.
[39] Section 9 does not apply to NSO; see s 21AZA (Notices requiring information) instead.
[40] Section 32 of the Act.
[41] Statement of Expectations | Commonwealth Ombudsman

OFFICIAL

- Engage with us in good faith and actively assist us to perform our statutory functions including providing information, documents and access to staff, premises and systems.
- Provide formal responses to recommendations within the specified timeframe and provide updates on implementation as required.
- Proactively advise us about issues affecting the organisation's ability to deliver its functions in accordance with applicable legislation and policy, or which might otherwise result in unfair or unreasonable outcomes.
- Act in a timely way to implement and report to us progress against suggestions and recommendations arising from our oversight activities.
- Provide and maintain accurate details for designated points of contact within their organisation.

A failure to assist the Ombudsman, including in an investigation, may constitute a breach of the APS Code of Conduct, attracting sanctions under s 32 of the Public Service Act.

There is no set timeframe for a response to a request for information and it should be tailored for each request.[42] Staff should actively consider where shorter timeframes are appropriate (for example where the scope of the request is narrow). Regardless of the timeframe set, the Ombudsman expects that agencies will provide correct and complete response to requests for information in the specified timeframes.

If the timeframe cannot be met, agencies should contact the Office promptly to request additional time and explain the reason why more time is needed. Where an agency does not provide a response within the specified timeframe and does not seek or is not granted more time, its response will be recorded as being provided late. We may proceed to form a view based on the information already available and may publicly refer to instances where a response was not received or was received late, including in a public report.

Some general principles to consider when drafting written questions are:

- Consider the scope of the investigation and the assessment framework prepared, and how the information requested will assist to assess the issue or action.
- Use open, neutral language that does not prejudge a conclusion.
- Think critically about when it is appropriate to use open questions or when more targeted questions may be needed.
- While broad requests for information may be appropriate in some cases, consider the time it will take the agency to compile and provide the information and also the time it will take us to review and analyse voluminous information; we may discuss this separately with the agency and arrange for a partial or staged response if necessary.
- When asking questions, be clear whether we are requesting evidence or requesting an opinion or assertion (or both).

[42] For larger requests for information, 28 calendar days is usually considered appropriate. For smaller or simple requests, a shorter timeframe such as 14 calendar days may be preferable.

OFFICIAL

  - i.e. *"When making X decision, did you consider Y factor?" vs "Please provide supporting evidence, for example any minutes or correspondence, informing X decision"*
- When requesting specific documents relating to the issue under investigation, consider whether to also request:
  - draft versions of the document
  - correspondence relating to the development of the document
  - any discussion or commentary related to the document, and
  - any deliberations, notes or other written records related to the document.
- Use background research to inform the questions and avoid requesting information the Office already has or could access itself.

To avoid delays when requesting information, engage with the agency early on regarding:

- any security requirements for accessing the documents (e.g. if they are a particular security classification, how access will be managed)
- whether the agency holds and has access to all the documents requested, or if you will need to contact other agencies to obtain the documents requested. This is particularly relevant when you are requesting information from a co-ordination point within a large agency, rather than requesting information from a specific part of an agency that holds the information itself, and
- in the case of a large volume of documents, how it will transmit the information (e.g. by email or physically transferring the information to us, or remote access to the agency's systems).

4.5.2 Further methods for obtaining information

For some systemic investigations, the agency's written responses to our questions, internal guidance and decision documents will provide the information we need to confidently analyse the issue and make findings.

However, if investigators cannot obtain the information needed or reach the level of confidence in the information obtained via request to progress or finalise the investigation, investigators do have additional options:

Options	Power	Application to jurisdictions
Escalation If experiencing delays or pushback from an agency, escalating the matter to Senior Assistant Ombudsman (SAO), First Assistant Ombudsman, National Student Ombudsman (FAO),	Not applicable	Cth:[43] Yes DFO: Yes PIO: Yes OSO: Yes PHIO: Yes VSLO: Yes NSO: Yes

[43] OMIs initiated under s 5(1)(b) of the Act.

OFFICIAL

Options	**Power**	**Application to jurisdictions**
Deputy Ombudsman or Ombudsman to contact the agency may result in the information being provided.		NPM: Yes
Interviews – see also – 'Power to issue notices to attend interview or seek information – formal' (under s 9), below Interviews can be useful to obtain information quickly, provide anecdotal information that otherwise might not be able to be obtained from documents alone and to gain evidence of personal experiences. Interview audio should be recorded digitally with the interviewee's consent, with notes taken contemporaneously.	Under s 8(3) of the Act, the Ombudsman may 'obtain information from such persons' as he or she sees fit. This empowers the Office to ask to interview anyone with relevant information. Note that as with other requests under s 8, this is a *request* rather than a requirement (compare with s 9 below).	Cth: Yes DFO: Yes PIO: Yes OSO: Yes VSLO: Yes NPM: Yes
	Under s 20ZD of the Act, the PHIO may obtain information, and make such inquiries, as he or she thinks fit.	PHIO: Yes
	Under s 21AZ(d), NSO 'may obtain such information and make such inquiries as the NSO thinks fit' for the purposes of an investigation.[44]	NSO: Yes
Site visits We can request to visit a site where the agency operates. This may be useful when we need to review documents that may be impractical to transfer (either due to volume or security to classification), make observations or see how a particular policy or process works in practice, or engage with the agency staff in person (or example to gain	Under s 8(2) of the Act an investigation shall be conducted in such manner as the Ombudsman thinks fit. Under s 8(3) of the Act, the Ombudsman may 'obtain information from such persons' as he or she sees fit. This is a request, not a requirement – compare with formal inspection powers below.	Cth: Yes DFO: Yes PIO: Yes OSO: Yes VSLO: Yes NPM: Yes

[44] See s 21AZ – inquiries may also be made for other purposes, including deciding whether to investigate.

OFFICIAL

Options	Power	Application to jurisdictions
firsthand experience of how the administration of policy is impacted by the agency's culture). Contemporaneous notes should be made for any observations, and any notes, documents, photos or videos obtained must be filed.	Under s 20SA of the Act, the PHIO may conduct inspections and audits. This empowers the Office to enter premises at any reasonable time of day, inspect documents or other records and take extracts from or make copies of records.	PHIO: Yes
	Under s 21AU(2), NSO investigations to be conducted 'in such manner as the NSO thinks fit'. Under s 21AZ(d), NSO 'may obtain such information and make such inquiries as the NSO thinks fit' for the purposes of an investigation.	NSO: Yes
Making further inquiries in writing This can include writing multiple requests for information from the same agency, and/or requesting information from a third-party agency which may hold relevant information.	Under s 8(3) of the Act, we can obtain information and make inquiries during investigations.	Cth: Yes DFO: Yes PIO: Yes OSO: Yes VSLO: Yes NPM: Yes
	Under s 20ZD(1) of the Act, the PHIO may obtain information, and make such inquiries, as he or she thinks fit.	PHIO: Yes
	Under s 21AZ(d), NSO 'may obtain such information and make such inquiries as the NSO thinks fit' for the purposes of an investigation.	NSO: Yes
Meeting with the agency – informal We can use informal meetings to identify why information has not been provided or is significantly delayed, and identify and address any concerns from the agency about providing information. For example, explain the legal protections	Under s 8(2) of the Act an investigation shall be conducted in such manner as the Ombudsman thinks fit. Under s 8(3) of the Act, the Ombudsman may 'obtain information from such persons' as he or she sees fit.	Cth: Yes DFO: Yes PIO: Yes OSO: Yes VSLO: Yes NPM: Yes
	Under s 20ZD(1) of the Act, the PHIO may obtain information, and make	PHIO: Yes

OFFICIAL

Options	Power	Application to jurisdictions
provided by s 8 of the Act – see section 3.4.	such inquiries, as he or she thinks fit.	
However, in some cases it may be necessary to use the Office's coercive powers to obtain this information (see 'Power to issue notices to attend interview or seek information – formal' and 'Inspection – formal' below).	Under s 21AU(2), NSO investigations to be conducted 'in such manner as the NSO thinks fit'. Under s 21AZ(d), NSO 'may obtain such information and make such inquiries as the NSO thinks fit' for the purposes of an investigation.	NSO: Yes
Power to issue notices to attend interview or seek information – formal The Ombudsman has strong powers to *require* an agency or person to provide information relevant to an investigation. Circumstances where we may decide to use these powers include if an agency or third party will not or cannot provide the information voluntarily or asks us to use the powers to provide additional protection. Any investigator considering exercising these powers must understand the relevant provisions and how they impact the rights and obligations of the parties involved.	Section 9 of the Act provides powers to: - require production of any information including documents or other records[45] - copy, take extracts or retain documents,[46] and - require attendance at a specified place and answer questions.[47] The following protections and penalties apply when exercising the s 9 powers: - the person is not subject to penalties or civil actions by complying with the s 9 notice[48] - a person is not excused from complying on grounds that it would contravene an Act, it might incriminate the person or make them liable to a penalty, it would disclose legal advice given to a Minister, Department or a prescribed authority, legal professional privilege, or it would be contrary to the public interest[49]	Cth: Yes DFO: Yes PIO: Yes OSO: Yes VSLO: Yes NPM: Yes

[45] Sections 9(1) and 9(1AA) of the Act.
[46] Section 9(1A) of the Act.
[47] Section 9(2) of the Act.
[48] S 9(5) and s 37 of the Act.
[49] S 9(4) of the Act.

OFFICIAL

Options	**Power**	**Application to jurisdictions**
It may be that the Ombudsman advising an agency head of a willingness to use these formal powers will be sufficient to persuade the agency to provide the information or documents sought.	- section 36 of the Act makes it an offence to refuse to comply unless there is a reasonable excuse,[50] and - section 11A(2) allows the Ombudsman to make an application to the Federal Court of Australia for an order to direct the person to comply with the notice.[51] The Ombudsman must consider and sign all s 9 notices. The Act requires that the relevant Minister be informed of an investigation when a s 9 notice is sent to an agency or person within that Minister's portfolio (see s 8(7A) of the Act). This power can be exercised only by the Ombudsman and Deputy Ombudsman. Exercising s 9 powers without proper delegation is unlawful and constitutes a breach of the APS Code of Conduct.	
Section 13 powers may be used to clarify or collect information and establish evidence relevant to the investigation when other investigative methods have failed to establish truthful and accurate evidence. Using the power can enhance the credibility of the information	Section 13 powers can be used to examine witnesses under oath. If an individual is required to provide evidence under oath, the Ombudsman or their delegate can administer an oath or affirmation, placing them under oath. The individual (witness) can then be examined under oath, to obtain a	

[50] The *Criminal Code Act 1995* (Commonwealth Criminal Code) provides substantial penalties for people who make false or misleading statements to officials (see for example s 137.1(4)). If we consider it necessary, we can advise interviewees prior to the interview that giving false or misleading information is a serious offence, but there is no requirement to do so.
[51] The Ombudsman and the Legal Team must be consulted if purporting to exercise s 11A(2).

OFFICIAL

Options	**Power**	**Application to jurisdictions**
gathered and discourage false statements.	sworn testimony about the matter under investigation. This power can go hand in hand with the section 9 powers to compel agencies to produce documents relevant to the investigation.	
	Section 20ZE of the Act provides powers to require the production of information or records. This power is delegated to SAO and above.	PHIO: Yes
	Section 21AZA of the Act gives the NSO the power to issue notices requiring production of information or documents, or attendance at before the NSO to answer questions, which is delegated to EL2 and above. The NSO can also examine witnesses under oath, under s 13 of the Act. The NSO is not required to advise the Minister when using these powers.	NSO: Yes
Inspections and formal site visits Inspections and formal site visits are useful: - to view relevant information that is otherwise classified or voluminous - to observe a process - when the agency prefers that we view the relevant	Section 14 of the Act enables investigators to enter agency premises for the purposes of conducting an investigation to access IT systems and any documents or other records, inspect, observe and take extracts from or make copies of those documents or other records. Assisting investigators to conduct an investigation includes but is not limited to:	Cth: Yes DFO: Yes PIO: Yes OSO: Yes VSLO: Yes NSO: Yes NPM: Yes

OFFICIAL

Options	Power	Application to jurisdictions
information at their premises - to directly access an agency's IT systems to ensure the completeness and accuracy of relevant agency information investigated.	- physical access to premises (such as an agency escort or relevant security passes) - electronic access to an agency's IT systems (agency IT assistance in preparing logins and access to requested systems, electronic folders and electronic documents) - assistance to locate and access relevant records (such as arranging for appropriate access controls in agency record management and email systems and filing cabinets) - assistance to inspect and make copies of documents (including extraction of data to portable drives, access to printers, scanners and photocopiers) - providing facilities such as office space, computers or other devices, network connectivity, or filing cabinets and other secure storage. Investigators are not entitled to enter or remain at the premises if, on being asked, they fail to produce proof of their **written authority**[52] signed by the Ombudsman that states they are authorised to exercise the powers under s 14 of the Act. It is an **offence** for occupiers or persons in charge of a place who do not provide reasonable facilities	

[52] Instrument of Appointment - Section 14

OFFICIAL

Options	Power	Application to jurisdictions
	and assistance for the effective exercise of this power.	
	Section 20SA of the Act	PHIO: Yes
Inspection – Remote A 'remote' inspection is useful for when the investigator is not required to be physically present at an agency's premises or if its impractical to do so. Remote access can also be through a networked device such as a networked agency laptop. Remote access allows investigators across all statutory functions to access documents are other records held in electronic form by remote means. Remote access is also useful if we want to search for a particular document or class of documents because the agency has not provided these documents when advised to do so.	Section 14A. New section 14A allows investigators to obtain access to documents for the purposes of an investigation where we are not required to be physically present at the premises of an investigated agency. For example, it could include access by a user account and password or by a laptop, provided to the investigator to access systems. Remote access to an agency's IT systems includes agency IT assistance in preparing logins and access to requested systems, electronic folders and electronic documents. Note that there is a **requirement to give written notice** specifying the intention for, and the period of the remote access (14A(2)). It is also an **offence** for a person not to provide reasonable facilities and assistance for the effective exercise of the power, unless that assistance would pose an unacceptable risk to the security of the documents /records or system (14A(5)).	Cth: Yes DFO: Yes PIO: Yes OSO: Yes VSLO: Yes NSO: Yes NPM: Yes PHIO: Yes
PIO – Transfer to Commonwealth Jurisdiction Where a complaint is transferred by the PIO to the	Under s 19N of the Act, the PIO may transfer a complaint to the Commonwealth Ombudsman.[53]	PIO: Yes

[53] Note the Commonwealth Ombudsman may also transfer a complaint to the PIO under this section.

OFFICIAL

Options	Power	Application to jurisdictions
Commonwealth Ombudsman, it is taken to be a complaint that was made to the Commonwealth Ombudsman. The same legislative powers apply as if the complaint was original made under the Commonwealth jurisdiction.	This applies where a complaint is made to the PIO and in the opinion of the PIO, it would be more appropriate to deal with, or to continue to deal with, the complaint or part of the complaint in his capacity as the Commonwealth Ombudsman.	
NSO – Transfer to Commonwealth Ombudsman, OSO or VSLO Where a complaint is transferred by the NSO to the OCO, OSO or VSLO, it is taken to be a complaint that was made to that Ombudsman. The same legislative powers apply as if the complaint was originally made under the Commonwealth jurisdiction. The reverse also applies (transfer from the OCO, OSO or VSLO to the NSO).	Under s 21AZF of the Act, the NSO may transfer a complaint to the Commonwealth Ombudsman, Overseas Student Ombudsman or VET Student Loans Ombudsman (or vice-versa). This applies where it is the opinion of the holder of the office that it is more appropriate to deal with the complaint or part of the complaint in the other jurisdiction.	NSO: Yes

It is also important to document any difficulties encountered in obtaining information or documents, as this may be something the Ombudsman wishes to comment on in a report under s 15 (or equivalent reporting provision) or otherwise.

4.6 Options available for unresolved agency issues during an investigation

Where we are unable to resolve an issue of fact, legality or our findings with an agency during an investigation, the following methods (in addition to the information gathering options in section 4.4) may assist:

OFFICIAL

Option	Power	Application to jurisdictions
Disclosing information or making a statement	Under s 35A of the Act, the Ombudsman has broad power to disclose information or make a statement about an investigation, or the performance of the Ombudsman's functions. Some EL2s, all SAOs, the FAO and the Deputy Ombudsman have delegation to make s 35A disclosures. Prior to making the disclosure, the delegate must be satisfied: • in their opinion, the disclosure or statement is in the interests of a Department, prescribed authority, person, or in the public interest; AND • if the information relates to an investigation, they have satisfied procedural fairness requirements under s 8(5) or for an NSO investigation procedural fairness requirements under s 21AZD of the Act (more information on s 8(5) is in section 4.9 below); AND • the disclosure is not likely to interfere with an investigation or the making of a report. While we typically use s 35A of the Act to publish our investigation reports, we can also use this power to notify Ministers, or other oversight agencies, about agency action or inaction as part of an investigation.	Cth: Yes[54] DFO: Yes PIO: Partial[55] OSO: Partial[56] PHIO: Yes VSLO: Yes NSO: Yes NPM: Yes

[54] OMIs initiated under s 5(1)(b) of the Act.
[55] Section 35A(3)(a) does not apply to PIO jurisdictions.
[56] Section 35A(3)(a) does not apply to OSO jurisdictions.

OFFICIAL

Option	**Power**	**Application to jurisdictions**
	This may be used to escalate unresolved issues between the Office and the agency. Section 35A may also be used to disclose information found in an investigation to the appropriate regulator, where applicable. For instance, in the OSO or NSO space, the Ombudsman may choose to disclose information discovered in an investigation into a higher education provider to the Tertiary Education Quality and Standards Agency (TEQSA).	
Reporting Certain powers under the Act allow the Ombudsman to make a report when, *in the opinion of the Ombudsman*, certain triggers are met. If an agency has not fully complied with requests for information but the Office has been able to obtain sufficient information to form a view upon the key issues, the agency's lack of response could be commented on in the report. Similarly, the Ombudsman can report on contested issues that it has been unable to determine in a report. This can encourage an agency to prioritise resolution and transparently	Under s 15 of the Act if the Ombudsman forms the view the legislative criteria are met, they shall prepare an investigation report and provide it to the agency (s 15(2)) and the responsible Minister (s 15(6)). Under s 34 of the Act, only the Ombudsman may make a s 15 report. See also section 4.7 below for a description of s 15 power and process.	Cth: Yes DFO: Yes NPM: Yes
	Under s 19V of the Act, if the PIO forms the view the legislative criteria are met, they must report accordingly to the investigated body (s 19V(2)) and the responsible Minister (s 19V(6)).	PIO: Yes
	Under s 19ZQ of the Act, if the OSO forms the view the legislative criteria are met, they must report accordingly to the private registered provider (s 19ZQ(2)) and the responsible Minister (s 19ZQ(6)).	OSO: Yes
	Under s 20R of the Act, the PHIO may report and make recommendations after completing an investigation	PHIO: Yes

OFFICIAL

Option	Power	Application to jurisdictions
report the outcome of their analysis.	under Subdivision D of Division 3(s 20R(1)). The PHIO may also report to the Health Minister on the outcome of the investigation (s 20R(2)). Under s 20V of the Act, the PHIO may report to the Health Minister on the outcome of the investigation under Division 4 (s 20V(1)).	
	Under s 20ZV of the Act, if the VSLO forms the view the legislative criteria are met, they must report to the VET student loan scheme provider (s 20ZV(2)) and the Secretary of the relevant Department (s 20ZV(6)).	VSLO: Yes
	Under s 21AV of the Act, if the NSO is of the opinion that the legislative criteria are met, the NSO must report accordingly to the higher education provider. The NSO may give a copy of the report including any comments from the provider to the Higher Education Minister, the Secretary of the Higher Education Department and/or the CEO of TEQSA.	NSO: Yes
Escalation to the relevant Minister	Under s 8(8) of the Act, the Ombudsman may, either before or after the completion of an investigation, discuss any matter relevant to the investigation with the responsible Minister or any other Minister concerned with the matter.	Cth: Yes DFO: Yes PIO: No OSO: No PHIO: No VSLO: No NSO: No NPM: Yes
Breach of duty notifications	Under s8(10), (10A) and (11) the Ombudsman can notify Agency or provider Heads of evidence of a breach of duty or misconduct of officers either before or after completing an investigation.	Cth: Yes DFO: Yes PIO: Yes 19Y OSO: Yes 19ZT PHIO: No VSLO: Yes 20ZY

OFFICIAL

Option	Power	Application to jurisdictions
		NSO: Yes 21AZH NPM: Yes
Refer question to Administrative Review Tribunal (ART)	Under s 10A of the Act, during an investigation, the Ombudsman can refer a question about an agency's actions or exercise of power to the ART for an advisory opinion. Under our current delegation instrument, only the Deputy Ombudsman and the Ombudsman may make referrals to the ART. Once the Office has referred a question to the ART, we must inform, in writing, the principal officer of the agency we are investigating about our referral (s 10A(2)).	Cth: Yes DFO: Yes PIO: No OSO: No PHIO: No VSLO: No NSO: No NPM: Yes
Recommend principal officer refer questions to the ART	Under s 11 of the Act, the Ombudsman can recommend that the agency's principal officer refer a question, or questions, to the ART for an advisory opinion. We can make this recommendation before we complete our investigation (s 11(2)(a)) or include this recommendation in a s 15 report (see more information about reporting provisions and the relevant thresholds above). Following a s 11 recommendation by the Office, the principal officer must refer the question to the ART within 30 days (or longer if agreed by the Ombudsman and the principal officer) (s 11(3)). The Deputy Ombudsman is delegated to make a s 11 recommendation during an investigation. If the recommendation is to be included in a s 15 report, only the Ombudsman has delegation to make a s 15 report.	Cth: Yes DFO: Yes PIO: No OSO: No PHIO: No VSLO: No NSO: No NPM: Yes

OFFICIAL

Option	Power	Application to jurisdictions
Powers of the Federal Court of Australia This power may be used as a last resort to resolve disputes about the Ombudsman's use of powers during an investigation, or as part of reporting.	The Ombudsman or the principal officer of an agency may apply to the Federal Court of Australia to determine a question about the exercise, or proposed exercise, of the Ombudsman's functions or powers. Prior to making an application to the Federal Court of Australia, the Ombudsman must inform their Minister of reasons for the application in writing (s 11A(4) of the Act).	Cth: Yes DFO: Yes PIO: Partial[57] OSO: Partial[58] PHIO: Yes VSLO: Partial[59] NSO: Yes – 21AZC(4) NPM: Yes
Recommend ART refers question of law to the Federal Court We could recommend to an agency that it ask the ART to make such a referral in the next matter before the ART raising the relevant issue, or we could ask the President of the ART to consider doing so (see more information about reporting and the relevant thresholds above). If we asked the agency to do this, we could also recommend that it pay the legal costs of the other party, given that the other party should not have to bear the legal costs of being chosen as a test case.	The President of the ART has the power (s 185 of the *Administrative Review Tribunal Act 2024*), either on own motion or on the application of a party, to refer a question of law arising in a proceeding before it to the Federal Court for determination.	Where the matter under investigation is within jurisdiction of the ART.

[57] ss 11A(1) and (5) do not apply.
[58] ss 11A(1) and (5) do not apply.
[59] ss 11A(1) and (5) do not apply.

OFFICIAL

Option	Power	Application to jurisdictions
These options could be suggested to an agency informally, or if necessary made as recommendations in a report.		
Seek external legal advice	If a question of legality arises that we are unable to determine, the following options are available: • Request that the agency seek external legal advice The Office can ask the agency to seek legal advice (for example from the Solicitor General) and provide a copy to the Office. If the agency declines this request, the Ombudsman may make this a formal recommendation in a report. This option is preferable, as influencing the agency to take action to resolve the issue enhances government administration. • The Ombudsman seeks its own external legal advice. In doing so, the Office would need to comply with the Legal Services Directions 2017 which require, among other things, that the Office consult with the agency that administers the relevant legal advice before advice is sought unless the matter is urgent and provides a copy of the advice to the agency. Importantly, the agency's consent is not required, and the consultation does not need to be protracted.	Cth: Yes DFO: Yes PIO: Yes OSO: Yes PHIO: Yes VSLO: Yes NSO: Yes NPM: Yes

OFFICIAL

Option	Power	Application to jurisdictions
PIO – Transfer to Commonwealth Jurisdiction Where a complaint is transferred by the PIO to the Commonwealth Ombudsman, it is taken to be a complaint that was made to the Commonwealth Ombudsman. The same legislative powers apply as if the complaint was originally made under the Commonwealth jurisdiction.	Under s 19N of the Act, the PIO may transfer a complaint to the Commonwealth Ombudsman.[60] This applies where a complaint is made to the PIO and in the opinion of the PIO, it would be more appropriate to deal with, or to continue to deal with, the complaint or part of the complaint in his capacity as the Commonwealth Ombudsman.	PIO: Yes

The Office does not use its powers under s 10A, 11 and 11A of the Act often, but they are a viable option in certain circumstances. Staff should read the text of these provisions before considering using the power/s and discuss with their Director, Senior Executive and the Legal Team before preparing advice for the Deputy Ombudsman or Ombudsman.

Where a report expressing doubt about a matter of legality is proposed to be published, an agency may express concern that this could prejudice current or pending legal proceedings. It is unlikely that a statement or opinion published by the Ombudsman could prejudice civil proceedings, given a judge has their own duty to determine issues in proceedings. If there are pending criminal proceedings that will involve a jury, it may be appropriate to seek legal advice on whether the report could prejudice proceedings, and the report should be expressed in a manner that is not likely to cause prejudice.

4.7 Analysing information received and development of findings

As part of preparing for the systemic investigation, the investigation team should research the issue or action to be investigated thoroughly to assist with the analysis once the information is received. While the issue investigated in systemic investigations can vary in size and scope, in general the team should have a good understanding of the background (including any

[60] Note the Commonwealth Ombudsman may also transfer a complaint to the PIO under this section.

OFFICIAL

complaints received by the Office) and the legislative and policy framework around the issue, and what 'best practice' looks like in that area.

Generally, all information provided by the agency should be reviewed. If a decision is made not to review a document, the reasons for this decision should be clearly documented, carefully considering the scope of the investigation, the timeframes and resources available.

Analysis of the material gathered in the investigation must be objective and based solely on the facts. Analysis of the evidence and any findings must be documented, including if the assessment of a document or piece of information is that it is not relevant or out of scope. It is best practice to develop an assessment framework for investigators to use when conducting their assessments and recording their analysis and findings. An assessment framework should clearly set out the authorities and standards against which the agency's information should be assessed. This helps ensure consistency and objectivity in each investigators' analysis and findings.

Any proposed findings in an investigation must be objective and based on the evidence. Where, following an investigation, there remains an open question or unresolved doubt concerning agency action it is open to the Office to report on this and, if appropriate, make a recommendation, suggestion or comment (for example, where there is a question of legality that we are unable to determine, we may wish to make a recommendation that the agency seek external legal advice).

If, following an investigation, the investigators assess that the agency has acted in a way that is contrary to law, unreasonable or meets any of the other criteria in the relevant reporting provision of the Act,[61] or that the action was in accordance with a rule of law, legislation or a policy but the rule, provision or policy is unreasonable, unjust, oppressive or improperly discriminatory, those proposed findings must be presented to the Ombudsman for a final decision. The s 15 and equivalent reporting provisions in the Act, discussed above at 4.5 and further below, are non-delegable. In the event a report is prepared under these provisions, any findings, recommendations, suggestions or comments within are the Ombudsman's.

4.8 Outcomes of a systemic investigation

The Office may take a range of actions following a systemic investigation. When deciding what action to take, the Office will consider the legislative requirements, how to effectively influence improvements in public administration and the most appropriate format. In general, the outcomes of a systemic investigation will be:

- No further action
    - The investigation may assure us that further investigation of the administrative action is not warranted (for example, the issue has been fixed or we have confirmed that the agency's actions were reasonable, not contrary to law), and we can

[61] The reporting provisions are: s 15 (Cth & DFO), s 19V (PIO), s 19ZQ (OSO), ss 20R & 20V (PHIO), s 20ZV (VSLO), s 21AV (NSO) – see "Reporting" under 4.5 What options are available when we are unable to resolve issues with an agency during an investigation? for more information.

OFFICIAL

conclude the investigation without a report.[62] We could, however, also choose to issue a public statement about our investigation, for example if the issue investigated and/or the fact of our investigation had been of significant public interest and it was important to explain our conclusions.

- Informal action
  - The investigation may identify issues that warrant less formal exploration with the agency or agencies, for example, by seeking agency updates at routine engagement, or monitoring future complaints received about the issue.
- Statement to the agency – no recommendations, suggestions or comments.
  - The investigation may result in a statement without any suggestions, comments or recommendations being made.
- Statement to the agency – s 12(4) comments or suggestions[63]
  - The investigation may result in a statement to the agency that includes suggestions or comments under s 12(4) of the Act where the thresholds for a report under s 15 or equivalent reporting provision have not been met.
- Report to the agency[64]
  - The investigation may identify serious issues requiring a report to the agency, including any recommendations the Ombudsman sees fit. A report may also include suggestions and comments made under s 12(4) of the Act (where s 12(4) applies to the relevant jurisdiction).
- Statement to public service agencies or private entities – no recommendations, suggestions or comments
  - The investigation may result in a statement to all or a sector of public service agencies or private entities without any formal recommendations, suggestions or comments being made.

The Ombudsman may choose to publicly disclose any information, statement or report during or following an investigation under s 35A of the Act[65] if the legislative requirements under this provision are met (see 'Publishing an investigation report' below). Refer also to the Recommendations, Suggestions and Comments Policy.

If the Ombudsman forms the opinion, either before or after completing an investigation, that there is evidence that there has been a breach of duty or of the APS Code of Conduct, or misconduct, the Ombudsman has certain obligations under the Act to notify agency heads or Ministers.

Note also that s 32 of the Act provides that agency officers must use their best endeavours to assist the Ombudsman in the performance of the Ombudsman's functions. This applies to

[62] See the Ombudsman's discretion not to investigate under s 6 of the Act and notice requirements under s 12 of the Act where the investigation relates to a complaint that has been made to the Ombudsman.
[63] Does not apply to the PHIO jurisdiction.
[64] The reporting provisions are: s 15 (Cth & DFO), s 19V (PIO), s 19ZQ (OSO), ss 20R & 20V (PHIO), s 20ZV (VSLO), s 21AV (NSO) – see "Reporting" under 4.5 What options are available when we are unable to resolve issues with an agency during an investigation? for more information.
[65] Section 35A(3)(a) does not apply to PIO or OSO jurisdictions.

OFFICIAL

conducting investigations, and failure to assist the Ombudsman may constitute a breach of the APS Code of Conduct, attracting sanctions under the Public Service Act.

4.9 Recommendations, suggestions and comments

Recommendations, suggestions and comments are covered in detail in the Recommendations, Suggestions and Comments Policy. For further guidance on making recommendations, suggestions and comments, refer to this document.

Recommendations, suggestions and comments are tools the Office can use as part of investigations or inspections to raise issues with, and seek action from, agencies, prescribed authorities and providers we oversee to influence systemic improvement in administration.

Any report or statement following an investigation must include reasons for the Ombudsman's opinions, or findings, and can include recommendations, suggestions and comments for remedial, corrective or preventative action or for improvements that the Ombudsman thinks fit to make.

In relation to systemic investigations, in certain circumstances it is open to the Ombudsman to make recommendations in reports.[66] For some jurisdictions, the Ombudsman is required to report when certain legislative triggers are met.

Section 12(4) of the Act gives the Ombudsman the power to furnish comments or suggestions with respect to any matter relating to or arising out of an investigation by the Ombudsman.[67] Section 12(4) precludes the Ombudsman from providing these comments or suggestions to an agency where the Ombudsman has already furnished a report to the same agency under a s 15 or equivalent reporting provision relating to the same matter. This should not be interpreted too broadly, however: the prohibition against formally furnishing comments or suggestions in such a situation does not necessarily prevent the Ombudsman from communicating with an agency head about the matter.

4.10 Procedural Fairness

Section 8(5) of the Act[68] requires that, before finalising a report of an investigation (including a report under s 15 or equivalent reporting provision), if the Ombudsman intends to include opinions that are either expressly or impliedly critical of an agency or individual in the report, the Ombudsman must give that agency or individual the opportunity to make submissions either orally or in writing to the Ombudsman. This requirement must also be met before making the report public under s 35A of the Act.

To fulfil this requirement, the Office must:

---

[66] The reporting provisions are: s 15 (Cth & DFO), s 19V (PIO), s 19ZQ (OSO), ss 20R & 20V (PHIO), s 20ZV (VSLO), s 21AV (NSO) – see "Reporting" under 4.5 What options are available when we are unable to resolve issues with an agency during an investigation? for more information.
[67] The Ombudsman has delegated the s 12(4) power to Executive Level 2 Officers. Section 12(4) does not apply to the PHIO jurisdiction.
[68] Section 8(5) does not apply to PHIO or NSO investigations – for PHIO see e.g. 20V(3) and for NSO see s 21AU(3).

OFFICIAL

- If we have not already, notify the relevant Minister of the investigation (s 8(7A)(b)).[69]
- Provide notice of the criticism in the draft report to the individual or principal officer of the agency and invite them to make submissions orally or in writing in response.

For PHIO investigations, the relevant procedural fairness requirements are set out in s 20R and s 20V of the Act. For NSO investigations, the procedural fairness requirements are in s 21AU(3) and the general duty to accord procedural fairness in 21AZD.

Prior to affording procedural fairness to an agency, if we have not already, we must notify the relevant Minister of the investigation and a letter addressed to the Minister must be drafted for the Ombudsman's signature. A template for the letter to the Minister can be found here.

When affording procedural fairness to an agency, the draft report should be provided in a non-editable format (i.e. PDF).

In practice for systemic investigations about agencies, we usually meet this requirement by drafting a letter for the Ombudsman's signature, addressed to the principal officer of the agency, enclosing a PDF copy of the draft report. A template for the procedural fairness letter to accompany a report under s 15 or equivalent reporting provision can be found here. Where an entity response is required, the entity response template attached to the Monitoring and Assessment of Recommendations and Suggestions (MARS) Policy should be used. The letter will:

- Include a clear statement alerting the agency or organisation to the confidentiality of the report and that it should not be shared outside their agency or organisation, or within their agency to staff without a need to know, without first consulting with our Office. The statement may permit sharing the draft report with an agency or organisation's audit committee.
- Request any comments or submissions in response to the express or implied criticism.
- Where we have given recommendations or suggestions to the agency, ask whether the agency accepts or does not accept our recommendations or suggestions.
- If agencies are going to accept a recommendation or suggestion, ask them what action they will take to implement the recommendation or suggestion and by when the recommendation or suggestion will be implemented. We may provide indicative reasonable timeframes for implementation.
- Inform the principal officer whether we intend to make the investigation report public under s 35A of the Act.
- Invite the agency to respond in writing to our report and any recommendations or suggestions made. The written response will be included as an attachment to the final published report.

We typically give the agency 28 calendar days to respond to the draft report; however, this is practice and not a requirement, so we should consider whether 28 days or a shorter period is appropriate for the specific investigation and report. The Entity Response Template can be found at page 27 of the MARS Policy.

[69] Section 8(7A)(b) does not apply to the PIO, OSO, PHIO, VSLO or NSO jurisdictions.

OFFICIAL

To ensure that the report accurately explains the issues, it may help to meet with the agency either immediately before or at the same time as providing the draft report to explain the issues outlined in the report and invite the agency to make submissions as part of the s 8(5) process.[70]

If the report is critical of an individual rather than an agency, it is general practice to only provide the individual with the section(s) of the report relevant to them. If both an individual officer and the officer's agency need an opportunity to comment, consider providing an opportunity to the officer first and incorporate any changes into the report sent to the agency. (For this reason, when conducting interviews, staff should also ask interviewees their preferred official email address so that they can send a draft to the interviewee without alerting the agency to that process. If the agency becomes aware that we are offering a s 8(5)[71] opportunity to an officer, then the agency may assume that the draft is critical of that officer.)

The Office should consider all submissions and comments received in response to the procedural fairness process and decide whether the information provided should change the report or its conclusions (for example, if the agency has raised any errors of fact in the report). Section 8(5)[72] does not require that the agency agree with the draft report, require the Ombudsman to make any changes to the report or prevent the Ombudsman from expressing an opinion that is expressly or impliedly critical of an agency or person but, rather, ensures that an agency or person can make submissions in response to criticism. While the agency or individual may disagree with the report and its conclusions, the Ombudsman has ultimate discretion over the conclusions drawn and the content of their report. The report is a statement of the Ombudsman's independent opinion.

Following agency or individual submissions, the Ombudsman will clear the final report. In the unlikely event the changed report contains new opinions that may be critical of an agency or individual, those will need to be put to the agency or individual again.

The respective reporting powers for each jurisdiction also permit the agency, once it has received the final report, to provide comments to the Ombudsman about the report. These comments should be appended to any published version of the report.

4.11 Publishing an investigation report or statement

The Ombudsman can (under s 35A of the Act)[73] disclose information or make a statement regarding an investigation to any person or to the public in general if, in the opinion of the Ombudsman, it is in the interest of any agency, person or the public generally to do so. The Office uses this power to publish investigation reports, including systemic investigation reports.

Before publishing the investigation report under s 35A of the Act, the Office must ensure it has met the following requirements:

[70] Or equivalent process for PHIO or NSO investigations.
[71] Or equivalent process for PHIO or NSO investigations.
[72] Or equivalent provision for PHIO or NSO investigations.
[73] Section 35A(3)(a) does not apply to PIO or OSO jurisdictions.

OFFICIAL

- The Ombudsman (or a delegate) must be satisfied it is in the interests of any Department, prescribed authority or in the public interest to publish the report under s 35A(1) of the Act.
- The disclosure must not interfere with the carrying out of any other investigation (s 35A(2) of the Act).
- The report must not set out any express or implied critical opinions of a person or agency unless s 8(5)[74] has been complied with (s 35A(3)(a) of the Act).
- The report must not enable any complainant to be identified unless it is fair and reasonable in all circumstances to do so (s 35A(3)(b) of the Act).

4.11.1 Reports under s 15 (or equivalent reporting provision) of the Act

If the systemic investigation report is produced, the Office must give a copy of the final report to the agency and/or responsible Minister, depending on the reporting requirements.[75]

If the Ombudsman decides to then publish the report under s 35A of the Act, we will notify the agency's Minister, the principal officer of the agency or organisation, and our working level contacts. Any published report will include the agency or organisation's response to the report and our recommendations. The Ombudsman may also share the report with other interested bodies like parliamentary committees and other Ministers.

4.11.2 Reports or statements not produced

If the report is not produced under the respective reporting power for each jurisdiction, the Office is still empowered, under s 35A of the Act, to disclose the details of the investigation to any person, agency or the public if satisfied it is in the public interest to do so. This allows the Office to publish the results of a systemic investigation even where the Ombudsman is not of the opinion that the action investigated was wrong or otherwise meets the criteria to report.

Some EL2s, SAOs, the FAO, the Deputy Ombudsman and the Ombudsman have the power to authorise s 35A disclosures. However, as a matter of policy the Ombudsman makes the decision whether to publish investigation information (or reports).

4.12 Delegations

Section 34 of the Act allows the Ombudsman to delegate all and any of their powers under the Act, other than those powers specifically excluded under s 34. When conducting investigations, staff must ensure they check the current delegation instructions before exercising any powers under the Act. The current delegation instruments are available here: Delegations (ombudsman.gov.au).

[74] Or equivalent provision for PHIO or NSO investigations.

[75] The reporting provisions are: s 15 (Cth & DFO), s 19V (PIO), s 19ZQ (OSO), ss 20R & 20V (PHIO), s 20ZV (VSLO), s 21AV (NSO) – see "Reporting" under 4.5 What options are available when we are unable to resolve issues with an agency during an investigation? for more information.

OFFICIAL

4.13 Glasshouse reviews

Shortly after an investigation is finalised, the investigation team should conduct a 'Glasshouse' review to consider whether the recommendations provided in any systemic investigation report apply to the Office and, if so, whether the Office complies with them. It is important that our Office holds itself to the same standard as that expected of other public service agencies or private entities we oversee.

If a recommendation applies but the Office is assessed as not compliant, this process will identify action to be taken by the Office to ensure compliance, including recording the recommendation, action to be taken and timeframes for implementation in our Internal Recommendations Monitoring.

Further procedural instructions on Internal Recommendations and Assurance can be found here.

4.14 Monitoring agency implementation of recommendations

Taking action to follow up and assess an agency's progress in implementing our recommendations is a crucial aspect of our ability to influence enduring systemic improvement.

When we report to an agency, we request that the agency indicate in its response whether it accepts or does not accept our recommendations. We also ask the agency to outline its plan for implementation of the accepted recommendations, including action it purports to take and timeframes in which this action will be completed.

After the implementation period, and potentially in conjunction with the Office's reporting cycle of recommendation implementation, the Office will follow up with the agency on each accepted recommendation and request information and/or documents setting out the action that has been taken. We assess whether the recommendation is fully implemented or not implemented, and report on the outcomes of our assessment.

Refer to the Office's MARS Policy for further detail.

4.14.1 Where appropriate action is not taken on Ombudsman's report

Where the Ombudsman has issued a s 15 report and, in the opinion of the Ombudsman, adequate and appropriate action has not been taken by the agency with respect to the matters and accepted recommendations in that report within a reasonable time, the Ombudsman may inform the Prime Minister in writing.[76] In considering whether to inform the Prime Minister, the Ombudsman must consider any comments provided by the agency.[77]

Once the Ombudsman has reported to the Prime Minister under s 16, the Ombudsman may also furnish a special report to the Presiding Officers of Parliament for presentation to the Senate and

[76] Section 16(1) of the Act. Section 16 of the Act does not apply to PIO, OSO, PHIO, VSLO and NSO jurisdictions.
[77] Section 16(3) of the Act. Section 16 of the Act does not apply to PIO, OSO, PHIO, VSLO and NSO jurisdictions.

OFFICIAL

House of Representatives.[78][79] If the matter is not resolved by the report to the Prime Minister or the report to Parliament, the Ombudsman can continue to discuss and attempt to resolve the matter with the principal officer of the Department.

5 Complaint investigations

In addition to systemic investigations, the core business of the office is investigating complaints received by the public. The principles, investigative methods and strategies outlined in this policy apply to all investigations the Office conducts (where consistent with legislative requirements), whether into a systemic issue or into an individual occurrence of an issue raised in a complaint.

Extensive guidance for investigating individual complaints can be found in the Parliamentary Complaint Handling Procedures and supporting documents found on the intranet Parliamentary Complaint Handling Procedures (ombudsman.gov.au).

5.1.1 *Notifying a complainant when a report under s 15 or equivalent reporting provision has been provided to an agency*

Under s 12(5) of the Act, if the Ombudsman provides a report under s 15 or equivalent reporting provision to an agency containing recommendations with respect to action in respect of which a complaint has been made:

- where the Ombudsman is of the opinion that adequate and appropriate action has not been taken by the agency within a reasonable time after the recommendations are provided, give the complainant a copy of the recommendations with any comments the Ombudsman thinks fit, or
- in any other case, provide the complainant with a copy of the recommendations with any comments the Ombudsman thinks fit.

The Principles-Based Complaints Management Policy has been developed to support the delivery of consistent, high-quality and timely service to complainants.

[78] Section 17 of the Act. Section 17 of the Act does not apply to PIO, OSO, PHIO, VSLO and NSO jurisdictions.
[79] Under s 21AW of the Act the NSO may, if a higher education provider has not taken adequate and appropriate action on matters in a report, give the Higher Education Minister a copy of a 21AV report and request it is tabled in in each House of the Parliament.

OFFICIAL

6 Approval

Document Owner: Strategic Investigations 1, Investigations Branch
Strategic Investigations 2, DIAL Branch

Review Cycle: Annual

Version	Date Approved	Approved by	Comment
1.0	14 Aug 2023	Iain Anderson, Ombudsman	
1.1	21 Dec 2023	Penny McKay, a/g Ombudsman	Updates: - Minor grammatical and formatting changes - Include reference to s 12(5) of the Act - Amendments requested by the Executive Committee to implement improvements identified from the Income Apportionment OMI 1.
2.0	22 Sep 2025	Iain Anderson, Ombudsman	Updates: - Amendments to *Ombudsman Act 1976* enacted by the *Oversight Legislation Amendment (Robodebt Royal Commission Response and Other Measures) Act 2025.* - Inclusion of new National Student Ombudsman jurisdiction. - Adds a reference to the Ombudsman's powers to draw breaches of a duty to the notice of agency heads. - Minor updates to terminology for consistency. - Removal of specific internal KPIs irrelevant to broader Office, relationship protocols, functions and updated references to completed policies. - Added specific requirement that agency responses to investigations should not be led or overseen by individuals or areas with direct involvement in the matters under investigation. - Removal of reference to compliance with Australian Government Investigation Standards and replace

OFFICIAL

Version	Date Approved	Approved by	Comment
			with intent to act in accordance with the spirit of the standards where applicable. - Added section 4.1.1 to consider people with diverse perspectives and vulnerability indicators during the scoping phase of an investigation. - Added section 4.4 to understand an agency's automated systems relating to an investigation. - Added link to template letter in section 4.10 to ensure investigation teams notify responsible Ministers of the investigation prior to affording procedural fairness to an agency, if the Minister has not already been notified. - Added s 13 and power to take evidence under oath.
2.1	October 2025	Contact team	Link amended in Section 3.3 to direct Users of the Policy to the Office's October 2025 Conflict of Interest Guidelines.

OFFICIAL

Appendix A: Source of powers to investigate

Jurisdiction	Investigation on Own Motion/into Complaint	Section of the Act	Text of section
Commonwealth	Complaint	Section 5(1)(a)	*"Subject to this Act, the Ombudsman shall investigate action, being action that relates to a matter of administration, taken either before or after the commencement of this Act by a Department, or by a prescribed authority, and in respect of which a complaint has been made to the Ombudsman"*
	Own motion	Section 5(1)(b)	*"Subject to this Act, the Ombudsman may, of his or her own motion, investigate any action, being action that relates to a matter of administration, taken either before or after the commencement of this Act by a Department or by a prescribed authority"*
Defence Force	Complaint	Section 19C(2)(a)	*"Subject to this Act, the Defence Force Ombudsman, shall investigate action that he or she is authorized by this Act to investigate and in respect of which a complaint has been made to him or her"*
	Own Motion	Section 19C(2)(b)	*'Subject to this Act, the Defence Force Ombudsman may, of his or her own motion, investigate action that he or she is authorized by this Act to investigate"*

OFFICIAL

Postal Industry	Complaint	Section 19M(2)(a)	*"Subject to this Act, the Postal Industry Ombudsman, is to investigate action that he or she is authorised by this Act to investigate and in respect of which a complaint has been made to him or her (other than a complaint excluded by subsection (4))"*
	Own Motion	Section 19M(2)(b)	*"Subject to this Act, the Postal Industry Ombudsman, may on his or her own initiative, investigate action that he or she is authorised by this Act to investigate"*
Overseas Students	Complaint	Section 19ZJ(2)(a)	*"Subject to this Act, the Overseas Students Ombudsman, is to investigate action that he or she is authorised by this Act to investigate and in respect of which a complaint has been made to him or her"*
	Own Motion	Section 19ZJ(2)(b)	*"Subject to this Act, the Overseas Students Ombudsman, may on his or her own initiative, investigate action that he or she is authorised by this Act to investigate"*
Private Health Insurance	Complaint	Section 20P(a) and (b)	*"The Private Health Insurance Ombudsman may investigate a compliant if:* *The complaint is not resolved to the complainant's satisfaction by mediation under Division 5; or* *The Private health Insurance Ombudsman is not satisfied with the outcome of a referral under Subdivision C."*

OFFICIAL

	Own Motion	Section 20T(1) and (2)	*"The Private Health Insurance Ombudsman may, on his or her own initiative, investigate the practices and procedures of a private health insurer or a private health insurance broker.* *The Private Health Insurance Ombudsman may, on his or her own initiative, investigate the practices and procedures of a health care provider together with an investigation of a private health insurer under subsection (1) …"*
VET Student Loans	Complaint	Section 20ZO(a)	*"In performing his or her functions, the VET Student Loans Ombudsman, may conduct an investigation in relation to a complaint made under section 20ZP"*
	Own Motion	Section 20ZO(b)	*"In performing his or her functions, the VET Student Loans Ombudsman may conduct an investigation on his or her own initiative"*
National Student Ombudsman	Complaint	Section 21AT(1)(a)	*"The National Student Ombudsman may investigate action taken by a higher education provider… on complaint made under [Part IIF]."*
	Own Motion	Section 21AT(1)(b)	*"The National Student Ombudsman may investigate action taken by a higher education provider… on the National Student Ombudsman's own initiative."*