

The role of the ACT Ombudsman is performed under the *Ombudsman Act 1989* (ACT). The Ombudsman also has specific responsibilities under the *Freedom of Information Act 1989* (ACT) and the *Complaints (Australian Federal Police) Act 1981* (Cth) (Complaints Act), and is authorised to deal with whistleblower complaints under the *Public Interest Disclosure Act 1994* (ACT).

In 2004–05, we reported that a review of the *Ombudsman Act 1976* (Cth) was being undertaken, with a view to putting proposals to government for the enactment of a new Act. It was noted that the ACT Government would be consulted in the course of this review.

The Ombudsman’s review of the Ombudsman Act (Cth) was submitted to the Prime Minister early in 2006. The review has made a number of suggestions for amendment to the Act to make complaint investigation processes simpler and more efficient. We expect a response from the Prime Minister in early 2006–07 and anticipate that his response will form the basis for any amendments. We will take up with the ACT Government any changes that may be needed to ensure consistency and that the lessons of the review can be applied to the Ombudsman Act (ACT).

### **COMPLAINTS (AUSTRALIAN FEDERAL POLICE) ACT 1981 (CTH)**

Members of the Australian Federal Police (AFP) provide policing services for the ACT under an agreement between the Commonwealth and ACT governments. Members of the AFP assigned to the AFP’s ACT region are engaged in community policing duties under the ACT Chief Police Officer, who is also an AFP Deputy Commissioner. Under the Complaints Act, responsibility for investigating complaints is shared between the AFP and the Ombudsman’s office.

In 2006, the Australian Parliament enacted major reforms to the AFP complaints-handling system, which would also reform the Ombudsman’s current role in overseeing complaints about the alleged conduct of AFP members. These reforms are contained in the *Law Enforcement (AFP Professional Standards and Related Measures) Act 2006*, which passed through Parliament on 23 June 2006 and is awaiting proclamation.

The proposals contained in the Act are based on the findings of a review of AFP Professional Standards conducted by Justice William Fisher AO, QC in 2003 (the Fisher Review). The Fisher Review recommended that the AFP adopt a managerial model, or administrative approach, in dealing with professional standards issues, with a greater emphasis on performance management and changing poor behaviour.

The Ombudsman was consulted on the reforms and supports the introduction of the new complaints-handling model contained in the Act, which will streamline the current system.

At present, the Complaints Act requires all complaints from members of the public to be dealt with jointly by the AFP and the Commonwealth Ombudsman. This has resulted in disproportionate resources being allocated to minor complaints and consequent delays in the resolution of more serious matters.

The new model will remove the requirement for joint handling of all complaints. AFP line management will deal with minor matters, providing a faster and more efficient method of resolving these issues. More serious matters will continue to be notified to the Ombudsman’s office, with primary responsibility for resolving these matters remaining with the AFP. The categorisation of complaints into minor or serious matters will be agreed by the AFP Commissioner and the Ombudsman and set out in a legislative instrument.

The Act designates the Ombudsman as the Law Enforcement Ombudsman and in that role he will oversee complaints handling and conduct issues in the AFP as well as the investigation of more serious conduct issues.

The Ombudsman will continue to receive notification of all serious complaints received by the AFP, allowing us to decide whether to become further involved in the resolution of a complaint. The new model also requires the Ombudsman to audit the records of all AFP complaints on at least an annual basis. During the first few years of the new system, we will conduct more frequent audits. This new auditing obligation will ensure that the quality of AFP complaints-handling procedures is assessed and reviewed on a regular basis.

It is anticipated that the flexibility of the new system will allow the Ombudsman’s office to increase its focus on serious complaints and allow more time to undertake own motion investigations into systemic issues in the AFP.