



# ANNUAL REPORT

2009–2010



Australian Capital Territory  
**OMBUDSMAN**



# ANNUAL REPORT

2009–2010

Australian Capital Territory, Canberra 2010  
ISSN 1037-4302

Subject to acknowledgement, noting the ACT Ombudsman as the author, extracts may be copied without the publisher's permission.

Produced by the ACT Ombudsman, Canberra  
Design: Love Design Group  
Proofreading and indexing: Angela B. Grant  
Printing: Paragon Printers

Stock: Impress Satin is made from elemental chlorine free bleached pulp sourced from FSC certified well-managed forests. It is manufactured by an ISO 14001 certified mill.



Level 5, 14 Childers Street ■ Canberra  
GPO Box 442 ■ Canberra ACT 2601  
Phone 1300 362 072 ■ Fax 02 6276 0123  
ombudsman@ombudsman.gov.au  
www.ombudsman.gov.au

14 September 2010

Mr Simon Corbell MLA  
Attorney-General  
Australian Capital Territory Legislative Assembly  
London Circuit  
CANBERRA ACT 2601

Dear Attorney-General

I am pleased to provide you with the twenty-first Australian Capital Territory (ACT) Ombudsman's annual report for tabling in the Legislative Assembly. The report covers the period 1 July 2009 to 30 June 2010.

This report has been prepared under subsection 6(1) of the *Annual Reports (Government Agencies) Act 2004* and in accordance with the requirements referred to in the Chief Minister's Annual Report Directions in as far as they relate to this office. It has been prepared in conformity with other legislation applicable to the preparation of the annual report by the ACT Ombudsman.

I certify that this annual report is an honest and accurate account and that all material information on the operations of the ACT Ombudsman during 2009–10 has been included and that it complies with the Chief Minister's Annual Report Directions in as far as they relate to this office.

Section 13 of the *Annual Reports (Government Agencies) Act 2004* requires that you cause a copy of the report to be laid before the Legislative Assembly within three months of the end of the financial year.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Allan Asher".

Allan Asher  
Australian Capital Territory Ombudsman

## Contacting the ACT Ombudsman

Enquires about this report or requests for other information should be directed to:

Director, Public Affairs  
ACT Ombudsman

If you would like to make a complaint, or obtain further information about the Ombudsman:

**Visit:** Level 5, Childers Square, 14 Childers Street  
Canberra ACT 2601

**Write to:** GPO Box 442, Canberra ACT 2601

**Phone:** 1300 362 072

**Fax:** 02 6276 0123

**Email:** [ombudsman@ombudsman.gov.au](mailto:ombudsman@ombudsman.gov.au)

**Website:** [www.ombudsman.act.gov.au](http://www.ombudsman.act.gov.au)

# Contents

<b>Transmittal Certificate</b>	<b>iii</b>
<b>Contacting the ACT Ombudsman</b>	<b>IV</b>
<b>Section A: Performance and financial management reporting</b>	<b>VI</b>
Introduction	1
The organisation	2
Overview	3
Highlights	4
Outlook for 2010–11	6
Analysis of agency performance	6
<i>Table 1: Summary of achievements against performance indicators, 2009–10</i>	7
ACT Government Agencies–Complaints	9
<i>Figure 1: Approaches and Complaints received about ACT Government agencies, 1999–2000 to 2009–2010</i>	9
<i>Figure 2: Spread of approaches and complaints received about ACT Government agencies, 2009–2010</i>	10
<i>Figure 3: Time taken to finalise approaches and complaints about ACT Government agencies, 2009–2010</i>	11
ACT Policing – Complaints	18
ACT Policing – Inspections	22
<b>Section B: Consultation and scrutiny reporting</b>	<b>23</b>
Community engagement	24
Legislative Assembly Committee inquiries and reports	24
Legislation report	24
<b>Section C: Legislative and policy based reporting</b>	<b>27</b>
Public Interest Disclosure	28
Freedom of information	28
Internal accountability	28
Community grants/assistance/sponsorship	29
Territory records	29
Human Rights Act 2004	29
Commissioner for the Environment	29
ACT Multicultural Strategy	29
Aboriginal and Torres Strait Islander reporting	30
Ecologically sustainable development	30
ACT Women’s Plan	30
<b>Appendixes</b>	<b>31</b>
Appendix 1—Statistics (explanations of terms used in Table A1)	32
<i>Table 1a: Approaches and complaints received and finalised about ACT Government agencies, 2009–2010, Ombudsman Act 1989 (ACT) (Including freedom of information)</i>	33
Appendix 2—Report omissions and reason for non-compliance	34
<i>Table 2a: Report Omissions and reasons for non-compliance</i>	34
<b>References</b>	<b>35</b>
Abbreviations and acronyms	36
Compliance index	37
List of tables and figures	38
<b>Alphabetical index</b>	<b>39</b>



# Section A

Performance and financial  
management reporting

# Introduction

The office of the ACT Ombudsman was established 21 years ago when self-government came into effect for the ACT. During that time we have assisted the ACT community in resolving complaints about virtually all aspects of government administration. Complaints arise in matters as diverse as public housing, transport, parking, vehicle registration, building applications, policing and correctional services.

Our work operates at two levels—resolving individual grievances and investigating broader or systemic issues that require attention. It is a longstanding feature of Ombudsman work that we resolve individual complaints and also initiate our own motion investigations designed to improve public administration.

A change has nevertheless occurred in the style and intensity of the work that is undertaken at those two levels. This is captured in our focus on ‘helping people—improving government’.

At the individual level, we have traditionally focused on citizens who had a right to be treated lawfully and fairly by government agencies. Yet people now relate to government in many different ways. We are all citizens with the right to insist that decisions made by an agency are lawful. Yet we are consumers in receipt of or purchasing a service from government, such as legal aid, a driver’s licence, or a skills assessment. We may be customers of a government advisory service or a business incentive scheme. People are also clients of government agencies when they receive support and assistance.

In short, we interact with government as citizens, consumers, customers and clients. This has implications for complaint handling. In dealing with a complaint, it is no longer a simple task of enquiring whether the legislative or policy rules were applied correctly and fairly. Nor can each complaint be resolved by pronouncing that the complaint is upheld or dismissed.

Not infrequently, at the heart of the complaint is a soured relationship between an agency and a client on an ongoing basis such as when the person is a public housing tenant. Clarifying a person’s understanding of the advice given to them by an agency is another common complaint theme. ‘Who is right and who is wrong?’ is not always the issue, or at least will not provide a quick and effective resolution of a person’s grievance.

That explains why, in the work of the Ombudsman, we have changed our style over the years in the way that we receive and handle complaints. We

no longer portray ourselves as a ‘last resort’ agency that a person can approach with a formal complaint after exhausting other complaint options. We now accept that a major part of our work is to provide assistance, guidance and advice to the public. Allied to that we are developing assisted transfer programs, to transfer a person’s complaint to another agency, rather than send the person away to take that action themselves (which often they don’t).

Another change is that we do not conclude most investigations by deciding if an agency was at fault. Our primary reporting category is the remedy we provide a person. The remedy can be as straightforward as providing a better explanation or expediting agency action, but it can equally be more hard-edged, such as recommending administrative compensation or a change to a decision.

In addition to that dedicated focus on individual complaint handling, we also work at another level. We devote considerable attention to identifying agency defects that impair good administration. These issues, commonly described as systemic issues, are identified through individual complaints. A chief means of exploring these issues and improving government is to conduct an own motion investigation that culminates in a published report.

The ACT Ombudsman works in liaison with the Commonwealth and State Ombudsmen to ensure a shared vision of complaint investigation and resolution. Further work is being considered to advance our information sharing to provide a simple though more sophisticated process to allow greater integration of the work of Commonwealth and State and Territory complaint agencies. The objective is to improve further access to fair and accountable government administration.



Ron Brent, Acting ACT Ombudsman



## The organisation

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 *Australian Federal Police Act 1979* (Cth), and is authorised to deal with whistleblower complaints under the *Public Interest Disclosure Act 1994* (ACT).

The Commonwealth Ombudsman, who is appointed under the *Ombudsman Act 1976* (Cth), discharges the role of ACT Ombudsman under the *ACT Self-Government (Consequential Provisions) Act 1988* (Cth).

Up until 30 December 2006 the Ombudsman also had specific responsibilities in relation to the Australian Federal Police (AFP) under the *Complaints (Australian Federal Police) Act 1981* (Cth). Complaints made about the AFP before 30 December 2006 were dealt with under that Act. Complaints made after that date are dealt with under the Ombudsman Act (Cth). In addition, the Ombudsman has a role in monitoring compliance with chapter 4 (Child Sex Offenders Register) of the *Crimes (Child Sex Offenders) Act 2005* (ACT) by the ACT Chief Police Officer and other people authorised by the Chief Police Officer to have access to the register. The Ombudsman also has an inspection and reporting role under the *Crimes (Controlled Operations) Act 2008* (ACT).

The ACT Ombudsman is an independent statutory officer who considers complaints about the administrative actions of government departments and agencies. The Ombudsman aims to foster good public administration by recommending remedies and changes to agency decisions, policies and procedures. The Ombudsman also makes submissions to the ACT Government and the ACT Legislative Assembly on policy and legal reform.

The office investigates complaints in accordance with detailed written procedures, including relevant legislation, a service charter and a work practice manual. It carries out complaint investigations impartially, independently and in private.

Complaints may be made by telephone, in person or in writing (by letter, email or facsimile, or by using the online complaint form on our website). Anonymous complaints may be accepted.

The key values of the ACT Ombudsman are independence, impartiality, integrity, accessibility, professionalism and teamwork.

Our clients and stakeholders cover all people who may be affected by the administrative actions of ACT Government agencies and of the AFP in carrying out their ACT Policing role. A services agreement between the ACT Government and the Ombudsman covers the provision of services in relation to ACT Government agencies and ACT Policing.

In 2009–10 the Ombudsman delegated day-to-day responsibility for operational matters for the ACT Ombudsman to Senior Assistant Ombudsman Helen Fleming, and responsibility for law enforcement, including ACT Policing, to Senior Assistant Ombudsman Diane Merryfull. Both Senior Assistant Ombudsmen are supported by a team of specialist staff (the ACT Team and the Law Enforcement Team respectively) in carrying out these responsibilities for the Ombudsman. The Ombudsman and Deputy Ombudsmen maintain an active involvement in the work of these two teams.



Executive team (from left) Diane Merryfull, Ron Brent, George Masri and Helen Fleming

## Overview

### Summary and complaint statistics

Complaint handling remains the core of the ACT Ombudsman's role. In 2009–10 we received 676 approaches and complaints about the actions of ACT Government agencies (507) and ACT Policing (169). This was down marginally on 2008–09 when the office received 722 approaches and complaints (546 about ACT Government agencies and 176 about ACT Policing).

Housing ACT and ACT Corrective Services (ACTCS) continue to be the agencies that are the subject of the largest number of government agency complaints that we receive (106 and 151 respectively in 2009–10). The numbers of complaints about these agencies are not necessarily an indication that they are not performing well, but a reflection of the nature of the role and responsibilities of each agency in the community.

During the period we finalised 559 of the approaches and complaints received, 490 of which were about ACT Government agencies and 169 about ACT Policing.

Detailed analysis is provided in the Performance section of this report under the headings 'ACT Government agencies—Complaints' and 'ACT Policing—Complaints'.

### Submissions and major investigations

An important role of the Ombudsman is to contribute to public discussion on administrative law and public administration and to foster good public administration that is accountable, lawful, fair, transparent and responsive.

To achieve this outcome, we made submissions to, or commented on, a range of administrative practice matters, cabinet submissions and legislative proposals during the year. These included:

- a submission to the Standing Committee on Administration and Procedure inquiring into the appropriate mechanisms to coordinate and evaluate the implementation of the Latimer House Principles in the governance of the ACT

- an additional submission following our 2008–09 submission to the ACT Department of Justice and Community Safety on the review of the *Victims of Crime Act 1994*. Our views were sought on the proposed amendments to the Act in regard to complaint handling.

The office continues to participate in the Australian Research Council Linkage Project, awarded to Monash University—*Applying human rights legislation in closed environments: a strategic framework for managing compliance*. The project aims to advance human rights in 'closed environments' such as prisons, psychiatric institutions, mental health and disability facilities, community residential units and immigration detention centres. Objectives are to:

- assess the readiness of 'closed environments' in Australia to incorporate and apply human rights obligations in their daily operations
- evaluate the likely impact of human rights legislation on the functioning of closed environments
- develop practical strategies to facilitate compliance with human rights obligations in closed environments.

In 2008–09 we reported that we were conducting an 'own motion' investigation into an incident that had occurred at the Belconnen Remand Centre involving an altercation between detainees and custodial staff. We have decided to cease that investigation because we are satisfied with the outcomes of individual complaint investigations.

We continue to work closely with ACTCS in its new environment at the Alexander Maconochie Centre (AMC), building a more productive relationship for dealing with the issues as they arise. The AMC is currently in a transition phase as a remand centre and a sentencing facility. Given that there is ongoing development and review of policies and procedures, it is our view that complaint investigation remains an effective strategy for providing feedback to the agency at this time.

## Organisational planning and environment

The 2010–13 strategic plan for the office of the Commonwealth Ombudsman sets out strategic objectives for that period. Each year the Ombudsman and Deputy Ombudsman review the plan and establish the priorities for the next year.

In 2010–11, the Ombudsman's office will continue its focus on significant systemic issues arising from complaints, inspections and monitoring. We will continue our endeavours to improve structures and processes to deliver efficient, practical, higher quality and more consistent responses to complaints. The strategic priorities of the office are to:

- improve quality assurance and review of complaint handling
- build on the work practices and system changes to deliver improved quality, efficiency and consistency in managing complaints
- develop an enhanced approach to social inclusion and effective interaction through social media
- target outreach, relevant publications and communication activities to key stakeholders, particularly through intermediaries
- be responsive to areas of need in allocating resources.

Detailed reporting on a range of office-wide initiatives against the priorities for 2009–10 is provided in our Commonwealth Ombudsman Annual Report, available online at [www.ombudsman.gov.au](http://www.ombudsman.gov.au) from early November 2010.

We distribute a bi-monthly newsletter, *The Ombudsman News* which is emailed to ACT Government contact officers and features tips on complaint handling and news on upcoming events and Ombudsman initiatives.

In May 2010 the ACT Ombudsman website was redesigned including the provision of a new online complaint form. The form helps people understand the role of the Ombudsman and is a

step by step guide to assist complainants when lodging a complaint.

There is also information on other government agencies which may assist, and website hyperlinks. In addition the new website allows for supporting documents to be uploaded.

## Highlights

### Complaints service

The Public Contact Team (PCT) provides professional first line contact for members of the public making enquiries and lodging complaints with the ACT Ombudsman's office. The team sustains a complaint intelligence gathering function with which to support the ACT Team.

The main role of the PCT is to:

- provide professional initial interaction with members of the public via telephone and in person
- respond to incoming documents we receive via email, internet, fax and normal post
- resolve enquiries and out of jurisdiction complaints.

The ACT Team provides training sessions to new PCT staff on the role and jurisdiction of the ACT Ombudsman. The ACT Team also supplements the PCT's ongoing training program to ensure that approaches to the office are efficiently and effectively handled in the first instance. In circumstances where an approach is not within jurisdiction, the PCT provides guidance and contact details for other agencies that may assist the complainant, such as the Children and Young People Commissioner.

Periodically the office undertakes surveys of complainants and agencies, as this is one way to measure our performance and to identify areas for improvement in service delivery. Such surveys also provide information that helps us better target our outreach activities. Planning is underway for public awareness and agency surveys in late 2010.

Partially as a result of the previous survey undertaken in 2007–08, we are implementing a range of strategies to further improve our services. They include:

- incorporating more communication training in our core training modules
- reviewing our template letters
- redesigning our internet sites
- reviewing how we manage approaches to the office.

We have also introduced a comprehensive quality assurance program to complement the oversight which directors give to the handling of complaints. A panel of experienced directors from across the office, led by a Deputy Ombudsman or Senior Assistant Ombudsman, audits a sample of complaints closed each month. This panel provides feedback to the staff who handled the complaints and, where necessary, their manager. The panel produces a report identifying areas for improvement in complaint handling, as well as best practice examples they have seen. This is part of a more comprehensive quality assurance process that includes normal supervision, a capacity to require more senior sign-off as part of the complaint management system, peer or supervisor checking of all correspondence, our system of case reviews and the complaint and feedback processes (including complainant surveys).

### Public administration and complaint handling

The ACT Ombudsman continues to contribute to improvements in public administration by participating in specific projects, investigating and resolving complaints from individuals and by identifying systemic problems in public administration.

The Commonwealth Ombudsman continues to promote the *Better Practice Guide to Complaint Handling* as published in April 2009. The guide builds on previous Ombudsman publications

by defining the essential principles for effective complaint handling, and is being used by ACT Government agencies when developing or evaluating their complaint-handling systems.

We continued to have regular liaison with ACT agencies, and with agency contact officers. These meetings assist in maintaining a good working relationship with agencies which is important for timely and effective resolution of complaints.

We have provided significant input into ACT Government initiatives during the year, including participation in the following projects organised by the Department of Justice and Community Safety:

- the ACT Prison Project
- contribution to the content for the ACT Justice publication for the ACT Aboriginal and Torres Strait Islander community
- the Victims of Crime Reference Group.

We also provided feedback to the Department of Justice and Community Safety (JCS) on the implementation of the Foundation for Effective Markets and Governance recommendations. This project was initiated in 2004 to review the system of statutory oversight of government in the ACT.

Under s 40XA of the *Australian Federal Police Act 1979* (Cth), the Ombudsman, as Commonwealth Ombudsman, has a responsibility to review the administration of the AFP's handling of complaints, through inspection of AFP records. This includes records of the handling of complaints about ACT Policing. Further details are in the 'Performance' section of this report under the heading 'ACT Policing—Complaints'.

## Outlook for 2010–11

We will continue our program of contact officer forums for ACT Government agencies' complaint contact officers with a focus on the *Better Practice Guide to Complaint Handling*.

We will also promote the *Better Practice Guide to Managing Unreasonable Complainant Conduct* in the ACT Government sector as a valuable tool for helping agencies to resolve difficult situations in the most efficient and effective matter possible.

We actively encourage agencies to seek our participation in their internal training sessions. As a result of closer involvement in training programs, this office will be able to develop training aids that target the information needs of ACT Government agencies about the functions of the Ombudsman. We will also be able to target information sessions based on the specific issues relevant to the individual agencies.

We will continue our focus on improving web based services, particularly centred on our new online complaint form which has been highly successful in our Commonwealth Ombudsman role. Indications are it will be equally successful in the ACT context.

Finally, there will be continued pressure on our resources. We need to continue to improve both the efficiency and effectiveness of our complaint handling and broader work.

## Analysis of agency performance

### Summary of performance

In 2009–10, the ACT Government paid an unaudited total of \$998,435 (including GST) to the Ombudsman's office for the provision of ACT Ombudsman services.

The Ombudsman is funded under a services agreement with the ACT Government which was signed on 31 March 2008. Payments including GST) were for the purposes of the *Ombudsman Act 1989* (ACT) \$470,010 and for complaint handling in relation to ACT Policing (\$528,425).

The office's performance against indicators is shown in Table 1 and provided in more

detail under the headings 'ACT Government agencies—Complaints', 'ACT Policing—Complaints' and 'ACT Policing—Inspections'. The statistical report in Appendix 1 provides details of complaints received and finalised, and remedies provided to complainants, in 2009–10.

The categories of approaches and complaints to this office range from simple approaches that can be resolved with minimal investigation to more complex matters requiring the office to exercise its formal statutory powers. In all approaches that require investigation, we contact the agency to find out further information about the complaint and to provide the agency with an opportunity to respond to the issues raised in the complaint. Often an approach from this office to the agency assists in resolving the complaint in the first instance.

Where a complaint involves complex or multiple issues, we conduct a more formal investigation. The decision to investigate a matter more formally can be made for a number of reasons:

- a specific need to gain access to agency records
- the nature of the allegations made by a complainant require records to be provided
- if there is likely to be a delay in the time taken by an agency to respond to our request for information
- the likely effect on other people of issues raised by the complainant
- the agency requests that formal powers are used in an investigation.

Not all of the approaches we receive are complaints that are within the jurisdiction of the Ombudsman. We refer people to other oversight agencies that are established to handle specific types of complaints such as the Human Rights and Discrimination Commissioner and the Children and Young People Commissioner. There are some issues that are not within the jurisdiction of the Ombudsman, such as employment-related matters or decisions of courts or tribunals. In these cases, we inform the person of the role of the Ombudsman and associated limits of our jurisdiction. We try to assist them by providing relevant information and contact details.

Table 1: Summary of achievements against performance indicators, 2009–10

Performance indicators	ACT Government agencies	ACT Policing
Number of approaches and complaints received	507 approaches and complaints (546 in 2008–09)	169 approaches and complaints (176 in 2008–09)
Number of approaches and complaints finalised	490 approaches and complaints (537 in 2008–09)	167 approaches and complaints (205 in 2008–09)
Time taken to finalise complaints	86% of all complaints finalised within three months (93% in 2008–09)	89% of complaints finalised under the Ombudsman Act (Cth) within three months (96% in 2008–09)

### Liaison and training

This office aims to develop a better understanding by the public and by agency staff of the role and responsibilities of the Ombudsman. We engage in community outreach activities that assist to promote this better understanding. In 2009–10 this included:

- promoting the ACT Ombudsman role to students during Orientation Week activities at The Australian National University, the University of Canberra and the Canberra Institute of Technology
- participation in training for ACTCS recruits on the ACT Ombudsman's role
- promoting the role of the Ombudsman at the ACT Multicultural Festival
- liaison with the ACT Ambulance Service on complaint-handling best practices
- an address to the Rotary Club of Canberra on the role of the ACT Ombudsman
- participation of representatives from ACT Government agencies in the NSW and Commonwealth Ombudsman's focus group on unreasonable complainant conduct.

Ombudsman staff participated in formal and informal meetings with ACT Government agencies and conducted information and training sessions throughout the ACT Government sector. This liaison and training is important for the effective and efficient conduct of our complaint investigation role. Activities included:

- information sessions as part of the induction of ACTCS custodial staff
- regular meetings with senior staff in ACT Government agencies to provide feedback on complaints received and to ensure smooth handling of complaints
- input into a publication produced by JCS for the Aboriginal and Torres Strait Islander community about the complaint-handling role of the ACT Ombudsman.

## Service charter standards

The ACT Ombudsman Service Charter sets out the standard of service that can be expected from this office, explains how complainants can assist us to help them and provides them with an opportunity to comment on our performance.

We regularly monitor our performance against the service charter standards and assess ways to promote further improvement. This feedback enables us to improve our service. The service charter is available at [www.ombudsman.act.gov.au](http://www.ombudsman.act.gov.au)

As previously reported in 2008–09, we analysed the results of the previous client satisfaction survey conducted in late 2007–08, and put in place a range of initiatives to deal with the issues identified through that survey and other forums. A similar process will be undertaken again following the public awareness and agency surveys planned for late 2010.

If a complainant disagrees with the conclusions about a complaint, they can request a review. The reasons for seeking a review should be provided as this assists the office to fully understand the complainant's concerns.

Late in 2008–09 a new approach to dealing with requests for reviews was adopted. A central team now considers whether a review should be undertaken and then conducts the review if required. In some cases, the person may just need a clearer explanation of information we have already provided, or, they may have misunderstood our role, and further investigation is not necessary. The aim of our new approach is to provide greater consistency and timeliness of reviews.

It is important to assess the likelihood of a better outcome for a complainant should a review proceed. This helps ensure that the office's resources are directed to the areas of highest priority. If, as a result of a review, investigation or further investigation is required, the review team provides the complaint to a senior staff member to decide who should undertake the investigation or review.

During 2009–10 we dealt with nine requests for reviews. Five related to ACT Government agencies and four involved ACT Policing. In seven cases the original decision was affirmed. In two cases, the complaint was referred back to the relevant team for investigation or further investigation.

## Ongoing challenge

Over the reporting period we saw continuing pressure on resources and timeliness of complaint handling, with a minor increase in the time taken to resolve complaints. This has been a reflection of the complexity of cases and reporting processes, highlighting the importance of sustaining positive working relationships with agencies to enable the smooth exchange of information. Increasing our very tight turn-around to that achieved previously will be a focus for the coming year.

Accordingly, we will continue to review processes, training and technical support to find the means to improve timeliness. We are also negotiating with the ACT Government about resourcing levels.

# ACT Government agencies— Complaints

## Complaints received

Complaint handling remains the core of the ACT Ombudsman’s role. In 2009–10 we received 507 approaches and complaints about the actions of ACT Government agencies, 39 less than the previous year.

Significantly, ACT Corrective Services (ACTCS) accounted for 151 (up from 119) and Housing ACT accounted for 106 (down from 135). Figure 1 provides a comparison of approaches and complaints received about ACT Government agencies for the ten-year period 1999–2000 to 2009–10. (Figure 2 over the page, provides an illustration of the spread of approaches and complaints received across ACT Government agencies.)

Figure 1: Approaches and complaints received about ACT Government agencies, 1999–2000 to 2009–10

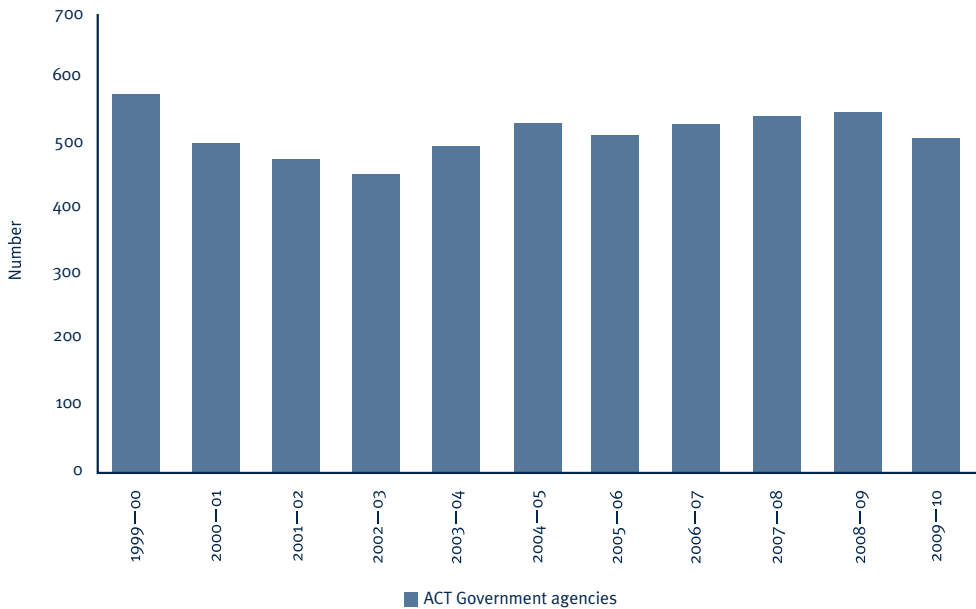
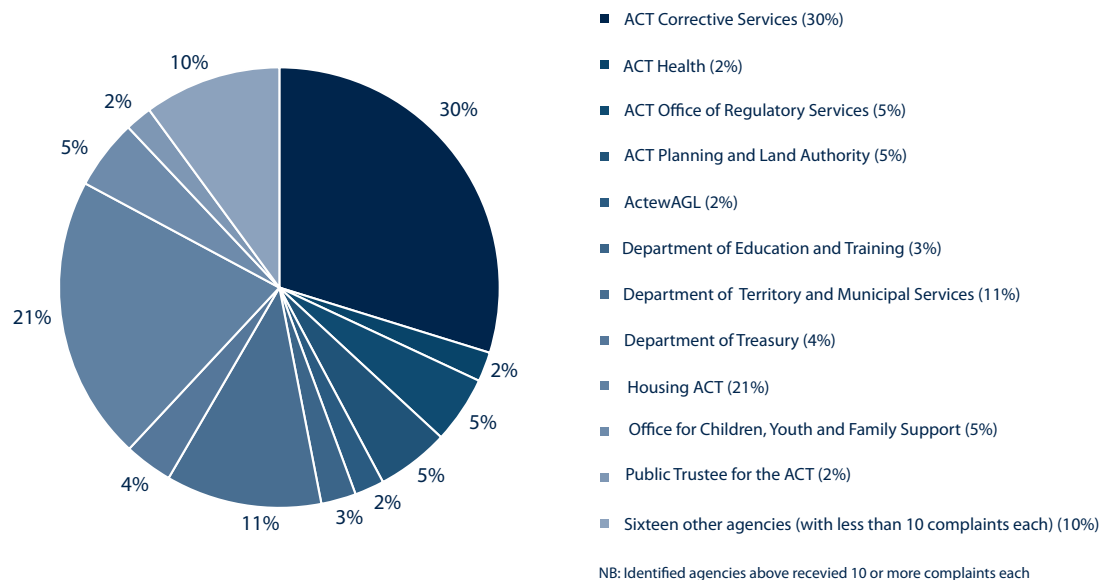




Figure 2: Spread of approaches and complaints received about ACT Government agencies, 2009–10



ACTCS and Housing ACT are responsible for almost 40% of complaints that we receive, which is predominantly a reflection of the nature of the roles and responsibilities of each agency in the community.

Changes to an agency’s role can affect complaint statistics. For example, the increase in ACTCS complaints may be largely attributed to the agency’s discharging its functions as both a remand centre and sentencing facility at the Alexander Maconochie Centre (AMC). Prior to September 2008 ACTCS was responsible for remanded detainees but not sentenced detainees who were held at interstate correctional facilities.

The higher number of approaches and complaints about corrective services is largely due to the establishment of the AMC. The majority of complaints came from detainees accommodated at this sentencing facility and related to:

- access to organised activities
- access to programs and study opportunities

- access to telephone accounts
- rolling lockdowns impacting on freedom of movement within the AMC
- detainee’s personal property lost as a result of internal cell transfers within the AMC.

During the year we noted that there had been an increase in the number of complaints received about detainees being locked in their cells. We arranged with the ACTCS to be kept informed of scheduled lockdowns in the AMC, which has assisted us in managing the detainee complaint load that arises as a result of rolling lockdowns.

We noted an increase in minor complaints and these would have progressed more efficiently if the detainees could have complained directly to the Official Visitor. The Official Visitor acts as an advocate for detainees and can negotiate practical outcomes and provide advice to detainees. He also has an investigation and reporting role to the ACT Government.

However, the position of Official Visitor remained vacant from September 2009 until February 2010, and this placed further pressure on this office to resolve minor complaints.

Housing complaints have decreased and the majority of these relate to housing allocations, transfer applications and requests for maintenance work to be carried out.

We consider that this office plays an important role in ensuring the agency meets the needs of vulnerable members of our community with fairness and consistency. As a result of our investigations Housing ACT advised that it has implemented specific strategies for checking tenants' satisfaction with maintenance requests. These include monthly audits and improved procedures for managing requests.

We made recommendations that Housing ACT provide reasons and better explanations for its decisions to its clients and maintain proper records. Further recommendations were made about the benefits of improving its procedures for reviewing decisions and establishing quality assurance measures across its assessment processes.

## Complaints finalised

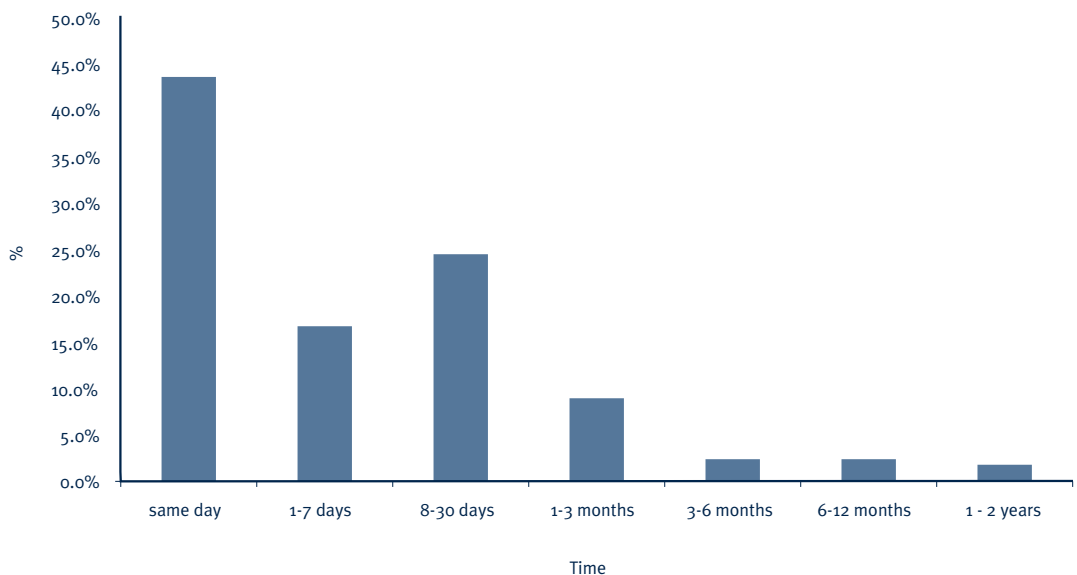
During 2009–10 we closed 490 approaches and complaints about ACT Government agencies, compared to 537 in 2008–09. This year we investigated 23% of the complaints we closed, compared to 30% last year.

We encourage complainants in the first instance to approach the agency that is the subject of the complaint. This provides the agency with an opportunity to deal with the approach using their complaint handling procedures and to resolve the issue.

During 2009–10, 55% of the complaints we closed were finalised within one week and 86% within three months (see figure 3). This is slightly lower than in 2008–09, when we finalised 56% within one week and 93% in three months.

Of the remaining approaches and complaints, 9% were completed in three to six months and 5% took more than six months to complete.

Figure 3: Time taken to finalise approaches and complaints about ACT Government agencies, 2009–10



## Complaint themes 2009–10

### Improving internal complaint handling systems

Our *Better Practice Guide to Complaint Handling* focuses on how government agencies can improve systems to deal with internal complaints and this has helped agencies to commit to effective complaint resolution. Many practical benefits result, which include better client relations, an enhanced reputation and more timely and consistent complaint handling.

To manage complaints well agencies need to integrate complaint handling into their core business. To do this we have identified five important elements:

- **culture:** agencies must value complaints as a means of strengthening their administration and improving their relations with the public
- **principles:** an effective complaint-handling system must be modelled on principles of fairness, accessibility, responsiveness, efficiency and integration

- **people:** complaint-handling staff must be skilled and professional
- **process:** the seven stages of complaint handling should be clearly outlined—acknowledgement, assessment, planning, investigation, response, review, and consideration of systemic issues
- **analysis:** information about complaints should be examined as part of a continuous process of organisational review and improvement.

Skilled staff and good systems are major components for achieving effective results, along with adequate review procedures and quality assurance measures.

The following case study (Ms A) demonstrates how the effects of inadequate procedures and record-keeping can reduce an agency's capacity to resolve complaints. In this case misplaced documents and staff turnover combined to substantially delay the resolution of the complaint.

### Keeping records and keeping complainants informed

Ms A complained to us that she had raised concerns with ACT Parks, Conservation and Lands a year earlier about a tree on the nature strip which was damaging her retaining wall. The matter had not been resolved. Ms A was also dissatisfied as a number of her enquiries by phone and letter had not been responded to by the agency. The agency had requested Ms A obtain and submit a quote for removal of the tree. After she submitted the quote, Ms A was not contacted by the agency even though she made a number of phone calls seeking an update.

The Department of Territory and Municipal Services (TAMS) confirmed that Ms A had contacted the department about the damage to the retaining wall and that an officer had met with Ms A to discuss the matter. TAMS advised that notes made by the officer during the home visit had subsequently been misplaced during the office relocation and there had been some staffing changes. This resulted in a delay in responding to Ms A.

Following our enquiries, TAMS wrote to Ms A apologising for the delay in contacting her and, as a gesture of goodwill, offered to sever the tree root at the property boundary. TAMS also confirmed its earlier advice to Ms A that costs for repairs to the wall could be reimbursed if Ms A arranged for the work to be completed herself.

In the case of Ms B, agency staff deviated from the written policies and procedures, and as a result the complainant was required to wait an unreasonable length of time for a remedy.

Further, the complainant was required to lodge a Freedom of Information request, which should not have been necessary.

## A verbal complaint is also a formal complaint

Ms B was dissatisfied with the ACT Department of Education and Training (ACTDET) handling of her complaint about a school principal. Following the suspension of her children, Ms B had telephoned ACTDET to appeal against the suspensions and to complain about the principal's handling of the matter. Ms B had made several contacts with ACTDET and the school principal, asking for a meeting with departmental officers to discuss her concerns. Although Ms B had made it clear that she wished to complain about the suspensions of her children and to appeal the record of their suspensions, her verbal complaint was not formally recorded by ACTDET officers and so was not acted on in accordance with the Department's complaint-handling policies.

Ms B's requested meeting took more than two months to be scheduled. That meeting had to be rescheduled due to unavailability of officers on the day, and Ms B subsequently chose to cancel the rescheduled meeting. Some months later we wrote to ACTDET recommending that the department consider rescheduling the cancelled meeting with Ms B and the school principal. We were informed that a meeting took place a few weeks later and a number of positive outcomes resulted for Ms B's children.

Ms B had requested to see her children's records. Initially the principal advised her that she could view these at any time and could request copies of any documents on the record files. Later on Ms B was informed that she would 'have to go through the Privacy Act' to view her children's complete records. We were informed that this advice had been given to the principal by the department's central office and that Ms B's requests were being handled as FOI requests within the department. The reason for this advice was that some information pertinent to Ms B's children had been recorded outside the agency's normal record-keeping policies and guidelines.

In conducting investigations we ask that agencies provide us with copies of complaint-handling policies and procedures. Our review of policies and procedures and our feedback to agencies can help to identify potential weaknesses.

The case study (Mr C) on the following page demonstrates how difficult it can be to identify where a problem occurred when policies and procedures (requiring proper documentation) do not exist or if they do, are not followed. The agency was unable to explain to the complainant why it had taken so long to address the complaint.

## Managing a complaint without complaint management procedures

Mr C complained to this office that he had not received a response from the Department of Territory and Municipal Services (TAMS) regarding a complaint he had lodged in February 2009 about street lights. Mr C had requested information on the progress of his complaint several times after he first made the complaint. In May 2009, Mr C received an email that outlined the current works being undertaken throughout the ACT, but it did not specifically address the issues he had raised.

In August 2009 Mr C requested a response to his particular concerns and received an email in reply requesting further information regarding his complaint. In November, having provided the further information, Mr C received a response from TAMS which related to a different location to the one Mr C had specified in his complaint.

TAMS sent Mr C an apology by email and arranged to meet with him. During this meeting TAMS advised Mr C that they would have to check the maintenance budget to determine if it was possible to conduct the works to address his complaint. Mr C's request was placed on a maintenance schedule as a low priority. Mr C advised this office that he had been told that the works could be done, but not before February 2010.

We requested a copy of TAMS complaint handling policy and procedures and TAMS advised that the agency did not have a written complaints-handling policy. TAMS was not able to provide an explanation for the delays involved in handling Mr C's complaint.

It is important that agencies consider complaints in accordance with the correct legislation and that all decisions are made by officers with appropriate delegation. In the case study below (Mr D), the handling of the complaint was delayed by confusion regarding its nature.

Agencies need to evaluate and monitor complaint handling systems to ensure that they are working well and are an effective means of improving administrative functions. A commitment to officer training is essential to ensure officers have a sound understanding of policies and procedures to apply when making decisions.

## What is the complaint really about?

Mr D complained to this office regarding a bill he had received from the ACT Ambulance Service (ACTAS) following an incident at a water park. Mr D was disputing the charges as he did not call or consent to the ambulance being called and did not require assistance other than the first aid he had already received from a lifeguard. Mr D had complained to ACTAS and received a letter in response explaining that he was liable for the charges in accordance with the *Emergencies Act 2004*. In response to our investigation, ACTAS advised that Mr D's complaint had been assessed as a complaint against his liability for the charges but not as a request to have the charges waived. ACTAS assesses complaints about liability according to the *Emergencies Act*, and assesses requests for waiver according to the *Financial Management Act 1996*, with recommendations being sent to ACT Treasury for consideration.

Following our involvement, ACTAS sent Mr D a further letter clarifying the matter and inviting Mr D to request a waiver and to provide information to support this request.

## Supporting agency decision making

We encourage government agencies making decisions that impact on members of the community to provide reasons and explanations that are clearly articulated.

Some problems that give rise to complaints are inevitable. Decisions about complex technical matters can be difficult to get right particularly where discretion is required.

It is important that decisions are documented, supported by legislation and consistent with policy. Officers need to consider all the facts and any discretionary powers need to be applied fairly and impartially (with appropriate delegation).

In the case study of Ms E, problems occurred where an assessment of an application for transfer from a Housing ACT property was declined by an assessing officer. The assessing officer failed to consider relevant information in the application and other errors occurred when records were not updated adequately.

The willingness of agencies to correct errors when they are discovered can reduce the adverse impact on the complainant. It can be difficult for a complainant to identify that an error has been made particularly if the agency has provided inconsistent responses and proposed different courses of action.

## Poor decisions and poor records

Ms E, a Housing ACT client, applied for priority housing transfer following a serious incident that had occurred at her residence. Her application for transfer was refused. Mindful of her safety and that of her family she terminated her Housing ACT tenancy and went into the private property housing market.

Three years later Ms E reapplied for housing. Ms E complained to the Ombudsman's office because she had not been informed of the outcome of this application for priority housing. Our investigation of this matter revealed that she had been incorrectly classified three years previously when she had applied for a transfer. Priority housing was subsequently approved.

Housing ACT accepted that this matter had been handled poorly three years earlier. Furthermore, a file review revealed that Ms E had been assessed by Housing ACT as using 65% of her income for rental while in the private rental market. This figure was substantially above the level required to qualify for priority housing. Housing ACT informed us that Ms E would be told immediately that her application had been approved.

Housing ACT sent the outcome advice to an address that Ms E had vacated a month earlier. (It had been advised of her change of address but failed to amend its records.)

One month later Ms E contacted our office to enquire about the status of her complaint. She was unaware that approval had been granted for priority housing.

Housing ACT accepted our findings that its processes had been flawed in Ms E's case. An Act of Grace payment was provided for the detriment suffered by Ms E for three years renting at 65% of her income.

The next case study (Ms F), demonstrates that the failure of the agency to have any policy related to an issue can result in a poor decision and a complainant being given inconsistent information.

The case study of Ms G on the following page demonstrates that not all situations can be addressed by a policy. In such cases agencies need to be responsive to a situation and apply problem solving strategies, rather than relying on previous decisions based on different facts.

## Late fees and pro-rata registration

Ms F wanted to register her motorcycle for 12 months and paid the full registration fee indicated on her renewal notice. However, it was almost two months overdue. Ms F received the registration but this was only for 11 months and 3 days, because the 12 month registration fee had increased in the interim. Ms F wanted to pay the outstanding amount so she could get a full 12 months registration but was told this could not now be done.

Ms F had received conflicting advice from different officers, some of whom thought the outstanding amount could be back-paid to obtain a full 12 month registration and others had advised that this was not possible.

The Road Transport Authority (RTA) advised that there was no clear policy on this matter despite Ms F's case not being unique. We were also advised that the legislation allowed for registration to be renewed, but did not allow for registration to be extended. For this reason officers did not want to encourage the practice of extending registrations by allowing back-payment of unpaid fees.

Subsequently we were advised that the RTA was able to reverse and re-process payments to correct errors such as this, providing it can be completed prior to the end of the month. The RTA agreed to forward the contact details of an officer who could re-process Ms F's payment and she was then given a full 12 month registration.

## Policies have to be flexible

Ms G wrote to us expressing concern that she had not received any response from Housing ACT to a letter of complaint which she had submitted three months earlier. Ms G's letter concerned the actions taken by Housing ACT following the death of her daughter.

Ms G's daughter passed away suddenly and had been a Housing ACT tenant at the time. Housing ACT had deducted two rental payments after her death and advised that there was a rental debt of \$3.14 with a further \$1438.51 owing for cleaning and repairs completed at the daughter's residence. Payment was requested within 30 days.

We questioned the validity of the charges, noting that Ms G's daughter's rent was paid in advance at the time of her death and that a neighbour had cleaned the unit and mowed the grass and removed rubbish from the site following her death. Housing ACT advised that their current policy following notification of a death is to continue to charge rent until the keys for the property are surrendered. Ms G explained that the keys to the unit had been in the possession of the police and the unit could not be accessed for some time due to an ongoing police investigation.

After Housing ACT received a Statutory Declaration from Ms G stating that her daughter had passed away with no assets, Housing ACT cancelled the debts. Housing ACT also advised that as a result of the complaint it would review its processes for action to be taken following notification of the death of a tenant.

## Other issues

### ACT Corrective Services

In March 2010, the Alexander Maconochie Centre (AMC) completed its first year of operation as a centre for remanded and sentenced detainees. ACTCS has commissioned an independent

review of the operation of the AMC. This office is providing assistance to the consultancy by submitting complaint trends and statistical data, and providing broader input on key issues.

## A lack of resources does not exempt an agency from its commitments

Mr H was transferred to the AMC from a NSW correctional facility in May 2009. He was nearing the end of his sentence and had been participating in a transitional release program while in the NSW corrections system. In September 2009 Mr H complained to the Ombudsman's office that he had been unable to participate in such a program since being transferred to the AMC.

Despite having first received detainees in March 2009, we were informed that there was no transitional release program operating at the AMC until late November 2009. This was because the facilities were not yet ready and policies and procedures were still being developed. All detainees receive a copy of the *AMC Prisoner Handbook* when they are inducted into the facility. This handbook includes a commitment to provide a transitional release program to detainees nearing the end of their sentence. ACTCS failed to meet this commitment to Mr H for six months due to a deficiency in the resources available.



# ACT Policing—Complaints

In the ACT, the Australian Federal Police (AFP) undertakes community policing governed by an agreement between the Commonwealth and ACT Governments. The AFP provides policing services to the ACT in areas such as traffic law, crime prevention, maintaining law and order, investigating criminal activities and responding to critical incidents.

Complaints made about the AFP and its officers acting in their ACT Policing role are dealt with by the Law Enforcement Ombudsman under Commonwealth jurisdiction and through an agreement with the ACT Government.

Before 30 December 2006, complaints about the AFP were handled by the AFP and oversighted by the Ombudsman under the *Complaints (Australian Federal Police) Act 1981* (Complaints Act). The final two complaints under the Complaints Act were closed in 2009–10. (This is a correction of advice provided in the 2008–09 Annual Report indicating that all complaints had been closed in the 2008–09 year).

Complaints about the AFP made since 30 December 2006 are dealt with by the AFP under the *Australian Federal Police Act 1979* (AFP Act) and may also be investigated by the Ombudsman under the *Ombudsman Act 1976* (Cth). The Ombudsman does not oversight the handling of every complaint, but is notified by the AFP of complaints it receives which are categorised as serious conduct issues (Category 3 issues).

## Complaints received

In 2009–10 we received 169 complaints about AFP members acting in their ACT Policing role. The most common complaints were about:

- police conduct on duty, including customer service, inappropriate action and use of force
- the adequacy of investigation, failure to act and excessive delays.

## Complaints finalised

In 2009–10, we finalised our oversight role under the Complaints Act by closing the last two complaints. We also closed 167 approaches and complaints under the Ombudsman Act.

We referred 109 of the 167 finalised Ombudsman Act approaches and complaints back to the AFP as the complainants had not previously approached the agency. We advised seven complainants to pursue their complaints elsewhere—we referred five complainants to another advice or oversight body, one to a court and one to the Minister.

We declined to investigate 23 of the 167 approaches and complaints, for reasons such as:

- investigation was not warranted in all the circumstances
- the matter had been considered by a court
- the matter was out of jurisdiction
- the matter was over 12 months old before the complainant approached the Ombudsman.

We investigated 21 matters about the way that ACT Policing had investigated complaints referred to it. These included complaints relating to:

- arrest
- investigations
- conduct on duty.

We made findings critical of the AFP in four complaints. In seven matters we found that the appropriate remedy had been provided by the police. Seven investigations found no action was necessary having regard to all the circumstances. Other complainants were advised to pursue their matter elsewhere.

## Review of complaint handling

The Ombudsman has a responsibility under s 40XA of the AFP Act to inspect records and review the administration of the AFP's handling of complaints. The Ombudsman reports to the Commonwealth Parliament annually, commenting on the comprehensiveness and adequacy of the AFP's complaint handling, particularly regarding conduct and procedural issues, as well as its handling of enquiries from the Commonwealth Minister responsible for the AFP.

The most recent report to the Parliament, covering review activities conducted during 2008–09, was tabled in December 2009. The report referred to two inspections and the finalisation of a review (Review 3) during the period. The report noted that the AFP had put considerable effort into making improvements in the timeliness of the handling of minor complaints (Category 1 and 2 cases), the need for complaint handling to be ‘customer focused’, and for the AFP to accept organisational responsibility for complaints in order to generate systemic change.

We noted that the capacity of the technology used for complaint management remained an issue, as did timeliness in complaint resolution, particularly as it related to minor complaints. Timeliness remains a focus for our attention. Since that report was written, the AFP has improved the functionality of the complaint management system. However, timeliness remains an issue.

During 2009–10 there was considerable activity by the office in its reviews of AFP complaint handling. Review 4 for the period 1 August 2008–31 January 2009 was finalised in September 2009; Review 5 for the period 1 February 2009–31 July 2009 was finalised in June 2010; and Review 6, an ad-hoc review conducted under s 40XB of the AFP Act for the period 1 August 2009–28 February 2010 was completed but not finalised. We will report on that review in our next annual report.

Review 4 made two recommendations that the AFP should:

- *continue to focus on improving the outcome letters to complainants to provide details of the findings made and the reasons for those findings*
- *give more attention to maintaining regular contact with the complainants during the course of an investigation where a matter will not be finalised within the prescribed benchmarks, and provide a report to the complainant that outlines the progress.*

Review 5 made three recommendations that the AFP should:

- *conduct further analysis to determine the causes of delay in finalising complaints in all categories*
- *explain the complaints process clearly to a complainant and record this in the Complaint Recording and Management System (CRAMS)*
- *advise the complainant they have the right to complain to the Commonwealth and Law Enforcement Ombudsman who can investigate complaints about the actions of AFP members and about AFP policies, practices and procedures. The complainant should also be advised of how they can contact the Ombudsman.*

## ACT Policing component of the reviews

AFP complaints are categorised under the AFP Act as follows:

- Category 1—Conduct matters involving minor issues of conduct, rudeness, and failure to provide adequate customer service
- Category 2—Conduct matters involving minor misconduct and unsatisfactory performance and fall between minor Category 1 matters and more serious matters requiring formal investigation
- Category 3—Conduct matters involving serious misconduct, conduct giving rise to consideration of employment termination, breaches of the criminal law, or serious neglect of duty
- Category 4—Corruption matters that are referred to the Australian Commission for Law Enforcement Integrity.

No separate analysis of ACT Policing complaints was undertaken in review 4. Review 5 covered closed complaints from 1 February 2009–31 July 2009 and a preliminary analysis was made of the outcome of complaints. Of the 126 Category 1 complaints we examined, 63% were about ACT Policing of which 89% were not established

by the AFP investigation. Of the 305 Category 2 complaints, 43% were about ACT Policing of which 85% were not established. Of the 29 Category 3 complaints, 59% were about ACT Policing of which 59% were not established.

## Critical incidents

The AFP notifies the Ombudsman of all critical incidents involving the actions of AFP officers. Critical incidents are incidents in which a fatality or significant injury has occurred, or where the AFP has been required to respond to an incident on a large scale, as might occur during a public demonstration. Usually we do not become actively involved in the investigation of critical incidents unless the AFP requests our involvement.

During 2009–10 one critical incident was reported. In July 2009 an AFP officer discharged his firearm during an incident involving the attempted interception of a stolen car on Northbourne Avenue in Canberra. Although the AFP officer was struck by the stolen vehicle, there were no serious injuries to the officer or other people.

## Own motion investigation

An investigation was conducted following a complaint against a senior officer in the AFP. It was alleged that the officer misused his position in the AFP to send three ACT Police officers to intervene on a relative's behalf in a property dispute.

This investigation did not find any evidence to support the allegation, but did identify specific deficiencies in:

- the AFP's investigation of the original complaint
- the policy and procedure for dealing with complaints against AFP senior officers
- the practice of police attending when property is removed or locks changed where there is a dispute about property rights.

## Unlawful arrests due to incorrect information in AFP systems

We looked at three individual complaints about ACT Policing in relation to arrests for breach of bail conditions. The three cases raised similar issues about whether decisions to make arrests for breach of bail conditions were being made on the best available information. In two cases, the complaints were that two juveniles had been wrongly arrested for breach of their bail conditions. In the other case, the complaint was that a person who should have been arrested for breach of bail conditions, had not been arrested.

In each of these cases when making a decision about whether to arrest or not, the police officer relied on AFP information which was not accurate as it did not reflect the most recent court action and, therefore, the decision was wrong. The cases showed failures with ACT Policing procedures and communication between ACT Policing and the ACT Magistrates Court and Supreme Court.

While we understand that since these incidents occurred different arrangements have been put in place to improve the accuracy of information exchange between the police and courts, it was not clear from our investigations that the revised arrangements addressed the problems that these cases revealed.

The Ombudsman wrote to both the AFP Commissioner and the JCS about his findings in these cases.

The two case studies on the following page are examples of other investigations conducted during the year.

## Search warrant

A young woman complained that ACT Policing searched her home and had not shown her a copy of the search warrant. She also said that police were rude to her and had failed to take her complaint.

We investigated and found that the police had not shown her a copy of the warrant before she had to leave the premises and after she had been personally searched. Her mother, as an occupier, was shown a copy of the warrant. We found no evidence that the police were discourteous but we did find that the two Constables she had complained to on the day of the search had not taken her complaint and had not entered it into the AFP complaints system.

The *Crimes Act 1900* required the police to show the woman the warrant as they had searched her under its authority and in our view the officers made a legal error in not doing so. We recommended that the AFP:

- apologise to the young woman for its failure to show her the premises warrant and for not taking down and dealing with her first complaint
- remind the leader of the ACT policing premises warrant team of the legal requirement to show a person the warrant if they are searched under a premises warrant.

The AFP remained silent on an apology, but advised that it would consider amending its *ACT Practical Guide on search procedures* to clearly state that where a forced entry is effected, and it is considered in the interest of officer safety to secure the premises and immediately conduct personal searches of the occupant, that this may occur prior to, but does not obviate, showing a copy of the warrant to the occupants of the premises.

## Consulting a lawyer

Mr J was the subject of a Random Breath Test in Canberra and was taken to Woden Police Station for a further breath analysis. Our complainant (Mr K) claimed that he was refused access to his client, Mr J, in private, which he said violated Mr J's rights under s 51 and s 52 of the *Corrections Management Act 2007*, Part IC of the *Crimes Act 1914* (Cth) and s 22(20)(b) of the *Human Rights Act 2004*.

We did not agree that Mr J was held in custody or detained pursuant to the Corrections Management Act, nor did the Commonwealth Crimes Act apply in that situation. We were also of the view that it was not clear that the Human Rights Act provided such an absolute right to consult a legal adviser in private, in this situation, as Mr J claimed.

We did consider, however, that it would have been reasonable for the AFP to facilitate Mr K speaking to Mr J in private, and that that would not have compromised the police administering the breath analysis, in accordance with the legislation. In coming to this view, we noted that this approach may not be practicable in all circumstances—it would depend on the resources of the police available at the time, the number of persons awaiting the analysis, the time taken to transport the person to a police station and so on.

We recommended to the AFP that it amend its relevant guideline to the effect that where it is practicable, the officers should allow a person detained for a breath analysis to consult with a lawyer in private. After considering the recommendation, the AFP decided not to amend the ACT Policing Practical Guide.

# ACT Policing—Inspections

## ACT Child Sex Offenders Register

A Child Sex Offenders Register was established in the ACT as a requirement of the *Crimes (Child Sex Offenders) Act 2005* (ACT) (the Act). The Register must contain up-to-date information relating to the identity and whereabouts of persons residing in the ACT who have been convicted of sexual offences against children. Information in the register comes principally from offenders, who must report any changes in their circumstances (such as a change of address) within seven days, and in any case must contribute details to the register or confirm existing details on the register at least once a year. One of the ACT Ombudsman's functions is to inspect the register to ensure that it is maintained accurately by ACT Policing.

This office has conducted four inspections of the register since its introduction in late 2005. The fourth inspection of the register was conducted in June 2010 and the report of that inspection is in the process of being finalised. The June 2009 inspection report was provided to the Minister for Police and Emergency Services and the ACT Chief Police Officer during the current reporting period. The Ombudsman found that ACT Policing is generally compliant with the relevant provisions of the Act and that the register is being maintained appropriately.

Nonetheless, we raised a concern with the Minister that the legislation may not be achieving its aim of reducing the likelihood of offenders reoffending. The Act does not prohibit offenders having contact with children, nor does it give police powers to monitor offenders. In NSW, NT, Qld and WA, additional legislation has been passed to prohibit offenders engaging in certain conduct under specified circumstances. We have recommended to the Minister that he consider amendments to legislation to enable police to monitor offenders and take action when they identify a child at risk.

## ACT Controlled Operations

On 19 August 2008 the *(ACT) Crimes (Controlled Operations) Act 2008* came into effect. This Act allows ACT Policing to conduct controlled (covert) operations in the ACT and gives oversight to the Ombudsman.

We conducted one inspection of ACT Policing in relation to controlled operations on 20 October 2009. We found ACT Policing to be compliant with the legislative requirements and noted that record keeping was of a high standard.

The ACT legislation closely follows the model laws on controlled operations (that were developed by the Standing Committee of Attorneys-General and Australasian Police Ministers Council Joint Working Group on National Investigation Powers), which were designed to ensure high levels of accountability and aid scrutiny by oversight agencies.



# Section B

Consultation and scrutiny reporting

## Community engagement

The Ombudsman's office maintains contact with the community in a variety of formal and informal ways. This aspect of our work is important in raising public awareness of the right to complain to the Ombudsman and building confidence in the role of the office in managing and investigating complaints about ACT Government agencies and ACT Policing.

During 2009–10 we:

- operated a stall at 'Contact Canberra' as part of the ACT Multicultural Festival
- conducted outreach activities during Orientation Week at the University of Canberra, the Canberra Institute of Technology and The Australian National University (ANU)
- promoted the role of the Ombudsman at the ACT Council of the Ageing Seniors Expo at the Kingston Bus Depot in March
- met with the trainee staff of the ACT BIMBERI Youth Justice Centre to explain our role and services
- presented a lecture to the Criminal Practice Class, Legal Workshop at ANU
- hosted a half-day ACT Agency Contact Officers Forum to promote best practice in complaint handling.



ACT Agency Contact Officers Forum 2009

## Legislative Assembly Committee inquiries and reports

The Standing Committee on Justice and Community Safety considered the ACT Ombudsman's Annual Report 2008–09 in its *Report on Annual and Financial Reports 2008–2009*, tabled in the Legislative Assembly on 13 October 2009. The Committee made no recommendations in relation to the ACT Ombudsman.

## Legislation report

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 is authorised to deal with whistleblower complaints under the *Public Interest Disclosure Act 1994* (ACT).

## ACT Policing

Members of the 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 Assistant Commissioner.

The AFP deals with complaints under Part V of the *Australian Federal Police Act 1979*. Complaints received by either the AFP or the Ombudsman prior to 30 December 2006 are dealt with under the provisions of the *Complaints (Australian Federal Police) Act 1981* (Cth). The last complaints under this legislation were finalised in 2009–10.

Responsibility for investigating complaints rests with the AFP. AFP line managers are required to deal with minor matters. More serious matters are notified to the Ombudsman's office. The categorisation of complaints into minor or serious matters was agreed on by the AFP Commissioner and the Ombudsman and set out in a legislative instrument. Primary

responsibility for resolving more serious matters remains with the AFP. The Ombudsman may investigate complaints about the AFP under the *Ombudsman Act 1976* (Cth). In general, complainants are expected to raise their complaints with the AFP in the first instance before the office will consider investigating them.

In addition, the Commonwealth Ombudsman, also designated as the Law Enforcement Ombudsman under the *Ombudsman Act* (Cth), is required to review the handling of complaints and conduct issues in the AFP at least annually.

The ACT *Crimes (Controlled Operations) Act 2008* allows ACT Policing to conduct controlled (covert) operations in the ACT and gives oversight to the Ombudsman. A controlled operation is a covert operation carried out by

law enforcement officers under the ACT *Crimes (Controlled Operations) Act* for the purpose of obtaining evidence that may lead to the prosecution of a person for a serious offence. The operation may result in law enforcement officers engaging in conduct that would constitute an offence unless authorised under this Act.

A Child Sex Offenders Register was established in the ACT as a requirement of the *Crimes (Child Sex Offenders) Act 2005* (ACT) (the Act). One of the Ombudsman's functions under the ACT *Ombudsman Act* is to monitor compliance with Chapter 4 of the Act by the ACT Chief Police Officer and other people authorised by the Chief Police Officer to have access to the register.







# Section C

Legislative and policy based reporting

## Public Interest Disclosure

Under the *Public Interest Disclosure Act 1994* (ACT PID Act), a person may make a public interest disclosure (PID) to any ACT Government agency including the Ombudsman. The Ombudsman can become involved directly or at the request of the agency concerned. PID matters are among the most complex cases the Ombudsman deals with in terms of their investigation and resolution.

The PID complaints investigated by the Ombudsman often intersect with workplace disputes and grievance processes. Such disputes can open up other issues relating to the wider operations of the agency involved.

In 2009–10 we received three complaints that were PIDs or characterised as PIDs by the complainant.

Due to the nature of the complaints, we referred two of them to the relevant agencies for investigation to give senior management an opportunity to deal with the issues.

In the third complaint, we transferred the matter to the ACT Commissioner for Public Sector Employment for investigation because they related to employment matters better handled by the Commissioner.

## Freedom of information

### Complaints about the actions of agencies

Section 53(3) of the *Freedom of Information Act 1989* (ACT) requires the Ombudsman to report on complaints about the handling of Freedom of Information (FOI) requests by ACT Government agencies.

During the year the Ombudsman received five complaints involving five agencies about the processing of requests under the FOI Act. Of these, three were investigated, one was closed on the grounds that investigation was not considered warranted, and the fifth was open, without being investigated at the time of reporting.

One complaint related to access to a document being refused. During the course of our investigation, circumstances changed such that the agency was able to release the document to the complainant.

Another complaint raised the issue of FOI decision letters needing to explain how a decision was arrived at, rather than simply repeating the wording of the exemption section or the terms of the decision itself. We encourage agencies to base their decisions on probative evidence and public interest tests, and a rational explanation of the adverse consequences which could potentially occur if the requested documents were released without exemptions or deletions.

We closed five complaints during the year. Two of these were complaints which had been received during the previous year.

### FOI requests to the Ombudsman

In 2009–10 the ACT Ombudsman received one FOI request under s 15 of the FOI Act. Partial access to the documents was granted in response to this request.

No applications for review of our decisions were made to the Administrative Appeals Tribunal/ACT Civil and Administrative Tribunal. It is not feasible to calculate reliably the cost of dealing with the FOI requests, as it is dispersed throughout the office. Any attempt to do so would require significantly more resources than were expended on this request. During the period, no fees or charges were imposed.

## Internal accountability

The Commonwealth Ombudsman is also the ACT Ombudsman. Funding for the work undertaken in relation to ACT Government agencies and ACT Policing is provided through a services agreement with the ACT Government. The current agreement took effect from 31 March 2008. The Ombudsman's office remains independent of the ACT Government.

The Governor-General reappointed the Commonwealth Ombudsman, Prof. John

McMillan, to a second five-year term in March 2008. Prof. McMillan moved on to the post of Australian Information Commission Designate in March 2010. Mr Ron Brent, Deputy Ombudsman, was also reappointed to a second five-year term in June 2008—assuming the post of Acting Ombudsman in March 2010. Dr Vivienne Thom was appointed as Deputy Ombudsman in March 2006 for a five-year term, leaving in April 2010 to take up the role of Acting Inspector-General of Intelligence and Security.

The remuneration for the Ombudsman and Deputy Ombudsmen is determined by the Remuneration Tribunal (Commonwealth).

## Community grants/ assistance/sponsorship

The ACT Ombudsman's office did not provide any community grants, assistance or sponsorship during the reporting period.

## Territory records

The ACT Ombudsman's office has a records management program that was approved by the Director of Territory Records.

In accordance with the *Territory Records Act 2002* (ACT), the office ensures that:

- all ACT Ombudsman records are stored appropriately and securely
- relevant position profiles and duty statements reflect the records management skills required by the Ombudsman's office
- training is available for records management and general staff in record-keeping skills and responsibilities
- a controlled language system for records management for the Ombudsman's office has been developed and is used by staff.

The office operates with an approved Records Disposal Schedule (Territory Records (Records Disposal Schedule – Ombudsman Complaint Records) Approval 2003 (No 2); Notifiable Instrument NI 2003-458).

Given the nature of our work, the office does not have records that may allow people to establish links with their Aboriginal or Torres Strait Islander heritage.

Part 3 of the Territory Records Act provides for public access to ACT records that are more than 20-years-old.

## Human Rights Act 2004

The ACT Ombudsman continued to work collaboratively with the ACT Human Rights Commission and ACT Corrective Services on issues concerning the Alexander Maconochie Centre.

The Ombudsman's office also plays an important role in human rights protection. The right to complain is both a right in itself, implicit in the civil and political rights listed in the Human Rights Act, and one of the best mechanisms to ensure that all other rights can be protected. It establishes a fundamental status for the individual in his or her dealings with government. The existence of public sector ombudsmen and other such bodies is crucial to minimising the inequality of power, resources and information that can prevent this right, and those available through it, from being exercised.

There was no litigation against the ACT Ombudsman in relation to the Human Rights Act.

## Commissioner for the Environment

There were no requests, investigations or recommendations relating to the Commissioner for the Environment.

## ACT Multicultural Strategy

The Ombudsman provides support to this strategy through efforts to ensure our office is easily accessible by the Australian community. Information sheets are available in 36 community languages setting out the role of the Ombudsman and how to make a complaint about a government agency.

These languages are: Albanian, Amharic, Arabic, Bosnian, Chinese (simplified and traditional), Croatian, Dari, Dinka, Dutch, Farsi/Persian, Filipino, French, German, Greek, Hindi, Indonesian, Italian, Khmer, Korean, Kurdish, Lao, Macedonian, Malay, Pashtu/Pashto, Polish, Russian, Serbian, Sinhalese, Somali, Spanish, Swahili, Tamil, Tigrinya, Turkish and Vietnamese. The information sheets are available at [www.ombudsman.act.gov.au](http://www.ombudsman.act.gov.au)

The office uses interpreting services, particularly telephone interpreting services, to assist people dealing with the office who may have difficulty communicating in English.

## Aboriginal and Torres Strait Islander reporting

In January 2010 we commenced work to develop an Indigenous Communication and Engagement Strategy to support the office of the Commonwealth Ombudsman and the ACT Ombudsman in dealing more effectively with Indigenous people and communities in the Northern Territory, the Australian Capital Territory and across all states. The project incorporates research into the most effective communication messages and mechanisms and is intended to assist us to identify ways to be more accessible to Aboriginal and Torres Strait Islander people. It also recognises the need for a culturally aware workforce, and for the office to establish a true baseline of data against which to measure progress and develop appropriate targeted tools to support Indigenous outreach across the whole office.

There are historic, geographic and cultural reasons why communication with Aboriginal and Torres Strait Islander people and communities present challenges and through the development of the strategy thus far, the office has already identified gaps in our approach which the strategy will be designed to address. A significant challenge to this work and to any other efforts to improve our ability to meet the needs of Indigenous people and other at risk groups is appropriate resourcing to our office.

## Ecologically sustainable development

The Ombudsman continued to encourage staff to manage all resources, including energy, prudently and in an ecologically responsible manner.

The office's Environmental Management Policy and staff information focus on energy conservation in the workplace, including the use of lighting, computer equipment, water management, transport management and organic recycling. The office actively recycles toner/printer cartridges, paper and cardboard products, classified waste and cans/tins, bottles and plastic. These strategies are promoted to staff through the office intranet and induction program.

An electronic records management system has also been introduced, which continues to be refined to support a reduction in the use of paper.

Our office has moved to new premises with a 5 star energy rating.

Reporting on resource usage specific to the ACT Ombudsman function only is not possible.

## ACT Women's Plan

The Ombudsman's office continues to provide support to the objectives of the ACT Women's Plan by:

- promoting the rights of all individuals, including women and girls, to complain about the administrative actions and decisions of government agencies
- providing a flexible, sensitive and responsive complaints service that can deal effectively with complaints from women and girls.



# Appendixes

# Appendix 1—Statistics

## Explanations of terms used in Table A1 (on page 33)

**Approaches/complaints finalised**—approaches/complaints finalised in 2009–10, including some complaints carried over from previous years

**Approaches/complaints received**—approaches/complaints received in 2009–10

**Category 1 approaches**—resolved without investigation, outcomes include decisions not to investigate and referrals to appropriate agency or authority

**Category 2 approaches**—approaches that cannot be resolved at category 1 and require further internal enquiries/research or more information from the complainant, resolved without contacting the agency

**Category 3 approaches**—investigation conducted and agency contacted

**Category 4 approaches**—further investigation conducted, as the complaint/approach was not able to be resolved in category 3

**Category 5 approaches**—further investigation conducted, as the complaint/approach was not able to be resolved in category 4; involves formal reporting processes

**Remedies**—complaints can contain a number of issues, each requiring separate investigation and possibly resulting in a number of different remedies

Table A1: Approaches and complaints received and finalised about ACT Government agencies, 2009–10, *Ombudsman Act 1989* (ACT) (including freedom of information).

Agency	Received					Finalised					Remedies												
	Total	No Investigation				Investigated	Total	Category 1	Category 2	Category 3	Category 4	Category 5	Total	Action expedited	Apology	Decision changed or reconsidered	Disciplinary action	Explanation	Financial remedy	Law, policy or practice changed	Other non-financial remedy	Remedy provided by agency without Ombudsman intervention	Total
		Category 1	Category 2	Category 3	Category 4																		
ACT Civil and Administrative Tribunal	3	2	1	1	1	4						4					1					1	
ACT Corrective Services	151	84	20	37	2	144						144	2				9	4				15	
ACT Department of Justice and Community Safety	2																						
ACT Emergency Services Agency	7	4	1	1		6						6											
ACT Health	11	10	1			11						11											
ACT Land Development Agency	1	1				1						1											
ACT Magistrates Court and Tribunals	1	1				1						1											
ACT Office of Regulatory Services	26	12	15	5		32*						32*					1					1	
ACT Planning and Land Authority	27	12	7	5		24						24					1					1	
ACT Policing	169	104	44	12	10	170						170		3	2	1	8	1				15	
ActewAGL	11	4	4	1		9						9					1					1	
ACTION	6	3	1			4						4											
Canberra Institute of Technology	6	2	1			3						3											
Chief Minister's Department	3	2	3			5						5											
Department of Education and Training	13	10	1	3		14						14											
Department of Territory and Municipal Services	58	24	17	11	1	53						53	1	1		3		1				6	
Department of Treasury	18	11	4	2		17						17									1	1	
Director of Public Prosecutions	1		1			1						1											
Housing ACT	106	61	16	22	4	103						103	7	2	2	7	7	1				26	
Human Rights Commission	1	1				1						1											
Legal Aid Commission of the ACT	8	6	3			9						9											
Office for Children, Youth and Family Support	26	9	16	1		26						26											
Office of the Public Advocate of the ACT	2	2	1			1						1											
Public Trustee for the ACT	10	3	3	5		11						11	1				1					1	
Roads ACT	5	2	1	2		5						5						1				2	
Supreme Court of the ACT	1																						
University of Canberra	3	1	3	1		5						5											
Total	676	367	166	109	18	660						660	11	6	4	1	32	12	2	1		70	



## Appendix 2—Report omissions and reason for non-compliance

The ACT Ombudsman is neither a public authority nor an administrative unit within the meaning of the *Annual Reports (Government Agencies) Act 2004* (ACT). Consequently, the ACT Ombudsman is unable to report against some aspects of the ACT Chief Minister's Annual Report Directions 2007–2010. Reporting on these issues and whole-of-government issues is provided for the office as a whole through the Commonwealth Ombudsman Annual Report 2009–10, which is available at [www.ombudsman.gov.au](http://www.ombudsman.gov.au)

Table A2: Report omissions and reasons for non-compliance

Section	Part	Reason
Section A: Performance and financial management reporting	A.5 Management discussion and analysis	ACT Ombudsman functions are intrinsically linked with broader Commonwealth Ombudsman organisational operations
	A.6 Financial report	
	A.7 Statement of performance	
	A.8 Strategic indicators	
Section B: Consultation and scrutiny reporting	B.2 Internal and external scrutiny	ACT Ombudsman functions are intrinsically linked with broader Commonwealth Ombudsman organisational operations
Section C: Legislative and policy based reporting	C.1 Risk management and internal audit	ACT Ombudsman functions are intrinsically linked with broader Commonwealth Ombudsman organisational operations
	C.2 Fraud prevention	
	C.5 Internal accountability (most aspects)	
	C.6 HR performance	
	C.7 Staffing profile	
	C.8 Learning and development	
	C.9 Workplace health and safety	
	C.10 Workplace relations	
	C.12 Strategic asset management	
	C.13 Capital works	
	C.14 Government contracting	
C.11 Strategic Bushfire Management Plan	No requirement to report	



# References

## Abbreviations and acronyms

ACT	Australian Capital Territory
ACTAS	ACT Ambulance Service
ACTCS	Australian Capital Territory Corrective Services
ACTDET	ACT Department of Education and Training
ACTPLA	ACT Planning and Land Authority
AFP	Australian Federal Police
AFP Act	<i>Australian Federal Police Act 1979</i> (Cth)
AMC	Alexander Maconochie Centre
ANU	The Australian National University
BRC	Belconnen Remand Centre
Complaints Act	<i>Complaints (Australian Federal Police) Act 1981</i> (Cth)
CMA	<i>Corrections Management Act 2007</i> (ACT)
CRAMS	Complaint Recording and Management System (AFP)
Cth	Commonwealth
FOI	freedom of information
FOI Act	<i>Freedom of Information Act 1989</i> (ACT)
GST	Goods and Services Tax
JCS	Department of Justice and Community Safety
NSW	New South Wales
NT	Northern Territory
Ombudsman Act	<i>Ombudsman Act 1989</i> (ACT)
Ombudsman Act (Cth)	<i>Ombudsman Act 1976</i> (Cth)
PCT	Public Contact Team
PID	public interest disclosure
PID Act	<i>Public Interest Disclosure Act 1994</i> (ACT)
Prof.	Professor
Qld	Queensland
RTA	Road Transport Authority
TAMS	Department of Territory and Municipal Services
WA	Western Australia

## Compliance index

<b>Transmittal certificate</b>	<b>iii</b>
<b>Section A: Performance and financial management reporting</b>	
A.1 The organisation	2
A.2 Overview	3
A.3 Highlights	4
A.4 Outlook	6
A.5 Management discussion and analysis	N/A
A.6 Financial report	N/A
A.7 Statement of performance	N/A
A.8 Strategic indicators	N/A
A.9 Analysis of agency performance	6
<b>Section B: Consultation and scrutiny reporting</b>	
B.1 Community engagement	7, 24
B.2 Internal and external scrutiny	N/A
B.3 Legislative Assembly Committee inquiries and reports	24
B.4 Legislation report	24
<b>Section C: Legislative and policy based reporting</b>	
C.1 Risk management and internal audit	N/A
C.2 Fraud prevention	N/A
C.3 Public interest disclosure	28
C.4 Freedom of information	28
C.5 Internal accountability	28
C.6 HR performance	N/A
C.7 Staffing profile	N/A
C.8 Learning and development	N/A
C.9 Workplace health and safety	N/A
C.10 Workplace relations	N/A
C.11 Strategic Bushfire Management Plan	N/A
C.12 Strategic asset management	N/A
C.13 Capital works	N/A
C.14 Government contracting	N/A
C.15 Community grants/assistance/sponsorship	29
C.16 Territory records	29
C.17 Human Rights Act 2004	29
C.18 Commissioner for the Environment	29
C.19 ACT Multicultural Strategy	29
C.20 Aboriginal and Torres Strait Islander reporting	30
C.21 Ecologically sustainable development	30
C.22 ACT Women's Plan	30

## List of tables and figures

### Tables

Table 1	Summary of achievements against performance indicators, 2009–10	7
Table A1	Approaches and complaints received and finalised about ACT Government agencies, 2009–10, <i>Ombudsman Act 1989</i> (ACT) (including freedom of information)	33
Table A2	Report omissions and reasons for non-compliance	34

### Figures

Figure 1	Approaches and complaints received about ACT Government agencies, 1999–2000 to 2009–10	9
Figure 2	Spread of approaches and complaints received about ACT Government agencies, 2009–10	10
Figure 3	Time taken to finalise approaches and complaints about ACT Government agencies, 2009–10	11



# Alphabetical Index

## A

abbreviations and acronyms, 36

Aboriginal and Torres Strait Islander community, 5, 7, 30

reporting, 30

achievements, summary, 7

ACT Ambulance Service, 7, 14

ACT Civil and Administrative Tribunal, 28, 33

ACT Commissioner for Public Sector Employment, 28

ACT Corrective Services (ACTCS), 3, 17, 29, 33

Alexander Maconochie Centre (AMC), 3, 10, 17, 29

Belconnen Remand Centre (BRC), 3

case studies, 17

complaints about, 3, 9, 10, 33

Official Visitor, 10–11

own motion investigations, 3

staff training, 7

ACT Council of the Ageing, 24

ACT Department of Education and Training, 10, 13, 33

ACT Department of Justice and Community Safety, 3, 5, 20, 33

ACT Emergency Services Agency, 33

ACT Government agencies

complaints about, 3, 9–17, 33

case studies, 12, 13, 14, 15, 16, 17

finalised, 7, 11

investigations, 28

overview, 3

received, 7

requests for review, 8

statistics, 3, 9, 10, 33

themes, 12

time taken to finalise, 7, 11

contact officers, 4, 5, 6, 24

internal training, 6, 7, 15

ACT Government

payments to ACT Ombudsman's office, 6, 28

services agreement, 2, 6

ACT Health, 10, 33

ACT Land Development Agency, 33

ACT Magistrates Court and Tribunals, 20, 33

ACT Multicultural Festival, 7, 24

ACT Office of Regulatory Services, 10, 33

ACT Ombudsman, 1, 28–9

Deputies, 2, 29

remuneration, 29

role, 1, 2

ACT Ombudsman's office

contact details, iv

establishment, 1

organisation, 2

payments from ACT Government, 6, 28

Public Contact Team (PCT), 4

records management, 29, 30

resources, 6

strategic plan, 4

Teams, 2

website, iv

ACT Parks, Conservation and Lands, 12

ACT Planning and Land Authority (ACTPLA), 7, 10, 33

ACT Policing, 18–22, 24–5, 33

case studies, 21

Chief Police Officer, 2, 22, 24, 25

- complaints about, 3, 18–21
  - Complaints Act, 18
  - finalised, 7, 18
  - Ombudsman Act, 18
  - received, 7
  - requests for review, 8
  - reviews, 19
  - statistics, 18, 33
  - themes, 18
  - time taken to finalise, 7, 8, 19
- controlled operations, 22
- inspections, 5, 18–19
- investigations, 18
- method of handling complaint issues, 18
- serious conduct issues, 18
- see also Australian Federal Police (AFP)
- ACT Practical Guide on Search Procedures*, 21
- ACT Prison project, 5
- ACT Registrar General's Office, 33
- ACT Self-Government (Consequential Provisions) Act 1988* (Cth), 2
- ACT self-government, 1
- ACT Treasury, 10, 14, 33
- ACT Women's Plan, 30
- ActewAGL, 10, 33
- ACTION, 33
- Administrative Appeals Tribunal, 28
- AFP
  - see Australian Federal Police
- Alexander Maconochie Centre (AMC), 3, 29
  - case study, 17
  - complaints about, 10
  - independent review of operation, 17
- ambulance service, 14
- annual report, 2008–09, correction to, 18
- annual reporting compliance, 34
- Annual Reports (Government Agencies) Act 2004* (ACT), 34
- anonymous complaints, 2
- apologies, 12, 14, 21, 33
- Applying human rights legislation in closed environments: a strategic framework for managing compliance*, 3
- Australasian Police Ministers Council, 22
- Australian Commission for Law Enforcement Integrity, 19
  - Australian Federal Police (AFP), 3
  - ACT policing agreement, 19, 24
  - Assistant Commissioner, 24
  - Commissioner, 20
  - complaint categories, 19, 24–5
  - complaint-handling system, review of, 5, 19, 24
  - complaints about, 2
  - critical incidents, 20
  - own motion investigations, 20
  - records inspections, 5, 18–19
  - review recommendations, 19
  - serious conduct issues, 18
  - technology, 19
  - timeliness of complaint resolution, 19
  - unlawful arrests, 20
  - see also ACT Policing
- Australian Federal Police Act 1979* (Cth), 2, 5, 18, 19, 24
- Australian National University, The, 7, 24
- Australian Research Council, 3



## B

Belconnen Remand Centre (BRC), 3  
*Better Practice Guide to Complaint Handling*, 5, 6, 12  
*Better Practice Guide to Management Unreasonable Complainant Conduct*, 6  
 BIMBERI Youth Justice Centre, 24

## C

Canberra Institute of Technology, 7, 24, 33  
 case studies, 12, 13, 14, 15, 16, 17, 21  
 certificate, transmittal, iii  
 Chief Minister's Department, 33  
 child sex offenders register, 2, 8, 22, 25  
 Children and Young People Commissioner, 4, 6  
 children, 4, 6, 8, 13, 22  
 client survey, 4, 8  
 clients and stakeholders, 2  
 Commissioner for the Environment, 29  
 Commonwealth Ombudsman, 1, 2, 4, 5, 6, 7, 25, 28, 30, 34  
 community engagement, 7, 24  
 community grants/assistance/sponsorship, 29  
 compensation, 1, 33  
 complainant conduct, unreasonable, 6, 7  
 complainant surveys, 4, 5  
 complaint handling, 3  
   *Better Practice Guide*, 5, 6, 12  
   within AFP, 5, 19, 24  
   within agencies, 12  
 Complaint Recording and Management System (CRAMS) (AFP), 19  
*Complaints (Australian Federal Police) Act 1981* (Cth), 2, 18, 24

## complaints

  about ACT Government agencies, 9–17  
   about ACT Policing, 18–22  
   anonymous, 2  
   auditing, 5  
   complex, 6  
   method of investigating, 2  
   method of making, 2  
   online, 2, 4, 6  
   outside Ombudsman's jurisdiction, 4, 6–7, 18  
   requesting a review of conclusions, 8  
   statistics, 7, 8, 9, 10, 18  
     overview, 3  
   themes, 12  
   time taken to finalise, 8, 11

complaints service, 4–5

## consultation

*see* community engagement

contact details, iv

contact officers, agency, 4, 5, 6, 24

controlled operations, 22

correction to 2008–09 Annual Report, 18

*Corrections Management Act 2007* (ACT), 21

*Crimes (Child Sex Offenders) Act 2005* (ACT), 2, 22, 25

*Crimes (Controlled Operations) Act 2008* (ACT), 2, 22, 25

*Crimes Act 1914* (Cth), 12

critical incidents involving police, 18, 20

## D

Department of Justice and Community Safety (JCS), 3, 5, 20, 33

Department of Territory and Municipal Services (TAMS), 10, 13, 14, 33

Department of Treasury, 10, 14, 33

Director of Public Prosecutions, 33

disciplinary action, 33

## E

ecologically sustainable development, 30

*Emergencies Act 2004*, 14

Emergency Services Agency, ACT, 33

Environmental Management Policy, 30

Executive team, 2

## F

finance, payment from ACT Government, 4, 28

*Financial Management Act 1996*, 14

financial remedies, 1, 33

Foundation for Effective Markets and Governance, 5

*Freedom of Information Act 1989* (ACT), 2, 24, 28

freedom of information, 12, 13, 28

    requests to the Ombudsman, 28

funding agreement, ACT Government, 28

## G

governance, 2, 5

governance of the ACT, Latimer House Principles, 3

government agencies

*see* ACT Government agencies

## H

highlights, 4–6

Housing ACT, 3, 9, 10, 11, 33

    case studies, 15, 17

    complaints about, 3, 9, 10, 33

*Human Rights Act 2004* (ACT), 21, 29

Human Rights and Discrimination Commissioner, 6

Human Rights Commission, ACT, 29, 33

human rights in prisons, 3

## I

Indigenous Communication and Engagement Strategy, 30

information technology, 19

inspections, AFP records, 5, 18–20

internal accountability, 28–29

interpreting services, 28

investigations, 2, 13, 18

    complex, 6

    major, 3

    own motion, 1, 3, 20

    reasons for no investigation, 18

## J

Joint Working Group on National Investigation Powers, Standing Committee of Attorneys-General and Australasian Police Ministers Council, 22

## K

key values, 2

## L

languages, information sheets, 29

Latimer House Principles, 3

Law Enforcement Ombudsman, 25

Law Enforcement Team (LET), 2

Legal Aid Commission of the ACT, 33

Legislative Assembly Committee inquiries and reports, 24

legislative report, 24–5

letter of transmittal, iii

liaison and training, 7

liaison meetings, ACT agencies, 5, 7

## M

Minister for Police and Emergency Services, 22  
 Monash University, 3  
 multicultural strategy, 29–30

## N

New South Wales, 22  
 newsletter, 4  
 Northern Territory, 22, 30

## O

Office for Children, Youth and Family Support, 10, 33  
 Office of the Public Advocate of the ACT, 33  
 Official Visitor, prison, 10  
*Ombudsman Act 1976* (Cth), 2, 18, 25  
*Ombudsman Act 1989* (ACT), 2, 6, 24, 33  
*Ombudsman News, The*, 4  
 online complaint form, 2, 4, 6  
 outlook, 6  
 outreach activities, 4, 7, 24, 30  
 overview, 3–5  
 own motion investigations, 3, 20

## P

performance report, 1–22  
   analysis, 6–8  
   highlights, 4–5  
   outlook, 6  
   overview, 3–4  
   performance indicators, 7  
 planning, organisational, 4  
 policies and procedures, 11–17, 20  
 policing  
   *see* ACT Policing; Australian Federal Police (AFP)

priority housing, 15

prisons

  ACT prison project, 5  
   human rights, 3  
   lockdowns, 10  
   *see also* ACT Corrective Services; Alexander Maconochie Centre (AMC); Belconnen Remand Centre (BRC)

Privacy Act, 13

public administration, 2, 3, 5

Public Contact Team, 4

*Public Interest Disclosure Act 1994* (ACT), 24, 28

Public Trustee for the ACT, 10, 33

publications, 4, 5, 7

  information sheets, 29

  newsletter, 4

## Q

quality assurance, 5, 11

Queensland, 22

## R

random breath testing, 21

recordkeeping,

  agencies, 12, 13, 15

  electronic system, 30

  Records Disposal Schedule, 29

remedies, 1, 13, 14, 15, 33

Remuneration Tribunal (Commonwealth), 29

reports, published, 1

research, 3

resources, 6, 8

reviews, new approach to dealing with requests for, 8

Road Transport Authority (RTA), 16

Roads ACT, 33

role of ACT Ombudsman, 1, 2

Rotary Club of Canberra, 7

## S

school principal, complaint about, 13

search warrant, 21

seminars/forums for contact officers, 6, 24

service charter, 8

services agreement with ACT Government, 2

sex offenders register, child, 2, 22, 25

staff

meetings with other agencies, 5, 7

training, 4, 5, 8, 29

stakeholders, 2

Standing Committee of Attorneys-General, 22

Standing Committee on Administration and Procedure, 3

Standing Committee on Justice and Community Safety, 24

State and Territory Ombudsmen, 1

statistics, 3, 7–11, 18, 32–3

strategic plan, 4

street lights, 14

submissions, 2, 3

Supreme Court of the ACT, 20, 33

surveys, complainants and agencies, 4, 8

systemic issues, 1, 4, 5, 12

## T

*Territory Records Act 2002* (ACT), 29

training

ACT Government agencies, 6, 7, 15

staff, 4, 5, 8, 29

transitional release program, 17

transmittal letter, iii

Treasury, ACT, 10, 14, 33

tree on nature strip, 12

## U

University of Canberra, 7, 24, 33

## V

values, key, 2

vehicle registration, 16

*Victims of Crime Act 1994* (ACT), 2

Victims of Crime Reference Group, 5

## W

website

address, iv

online complaint form, 2, 4, 6

redesign, 4

Western Australia, 22

whistleblower complaints, 24, 28

Women's Plan, ACT, 30

work practices manual, 2

workplace grievances, 28

## Y

young people, 20, 21, 24

*see also* child sex offenders register; children; Office for Children, Youth and Family Support



