

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 tend to be connected with workplace disputes and grievance processes. Such disputes sometimes open up other issues relating to the wider operations of the agency involved.

In 2008–09 we received three complaints that were PIDs or characterised as PIDs by the complainant. Of these three complaints:

- ▶ We declined to investigate one because we had received the same complaint previously. When we investigated that first complaint, we concluded the actions complained of could not be characterised as disclosable conduct for the purposes of the PID Act.
- ▶ In a second PID we suggested the complainant, an agency employee, should raise the complaint with the agency and give senior management an opportunity to deal with the issues. We invited the complainant to contact us again if they were dissatisfied with the outcome.
- ▶ We received a third PID just before the end of 2008–09 and the matter is in the early stages of consideration.

FREEDOM OF INFORMATION

Complaints about the actions of agencies

Subsection 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.

In 2008–09 we received eight complaints involving five agencies in which the handling of requests made under the FOI Act was raised as an issue. One complaint was out of jurisdiction because it related to a decision made by a government minister. About half of the other complaints related to service delivery, and specifically about delay by agencies in providing documents and/or decisions. Often the focus of our investigation is to have the agency expedite a response. The other complaints related to dissatisfaction with exemptions claimed by the agencies. In this situation, while we may agree with the agency's decision we will sometimes ask the agency to explain more clearly its reasons for exempting documents.

FOI requests to the Ombudsman

In 2008–09 the ACT Ombudsman received two FOI requests under s 15 of the FOI Act. In both cases, partial access to the documents was granted.

There were no applications for review of our decisions 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. During the period, no fees or charges were imposed.





INTERNAL ACCOUNTABILITY

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

The Governor-General re-appointed the Commonwealth Ombudsman, Prof. John McMillan, to a second five-year term in March 2008. Mr Ron Brent, Deputy Ombudsman, was also re-appointed to a second five-year term in June 2008. Dr Vivienne Thom was appointed as Deputy Ombudsman in March 2006 for a five-year term.

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 recordkeeping 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 currently 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 came into operation on 1 July 2008 and provides for public access to ACT records that are more than 20 years old. We are starting to examine our records to determine which are more than 20 years old and to which s 28 of the Act may apply. We will then develop tools to help members of the community interpret the records that are open for public access.

HUMAN RIGHTS ACT 2004

The ACT Ombudsman continued to work collaboratively with the ACT Human Rights Commission and the ACTCS on issues concerning the new ACT prison.

The Ombudsman's office also plays an active 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 bodies such as public sector ombudsmen minimises 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 ACT Ombudsman.

ACT MULTICULTURAL STRATEGY

The Ombudsman provides information sheets in 36 community languages that set out the role of the Ombudsman and how to make a complaint about a government agency. The 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 via a link on our website at 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.

In March 2009 the Ombudsman published a report under his Commonwealth Ombudsman jurisdiction on the use of interpreters. The report *Use of Interpreters* (Commonwealth Ombudsman Report No 03/2009) examined whether selected Australian Government agencies (including the AFP) have clear and comprehensive policies in place to guide staff in the use of interpreters. The investigation also considered the provision of staff training, a community language scheme for multilingual staff, recordkeeping, complaint-handling mechanisms and the way in which agencies address challenges in sourcing interpreters. The Ombudsman also published a companion fact sheet on the use of interpreters, outlining eight best practice principles for agencies using interpreters.

While this investigation was carried out under the Ombudsman's Commonwealth jurisdiction, the findings are relevant to many ACT Government agencies, and dealt specifically with AFP policies. The report and the fact sheet are available on our website at www.ombudsman.gov.au.

ABORIGINAL AND TORRES STRAIT ISLANDER REPORTING

Following the announcement by the previous Australian Government of the Northern Territory Emergency Response, we established a dedicated Indigenous Unit to provide assistance to all staff in the office in dealing with complaints from Indigenous people and communities. We also increased our outreach activity and complaint-handling capacity substantially.

While the focus of the unit's work has been the Emergency Response, the unit also provides

advice to other teams in the office on the best way to approach complaints from Indigenous complainants.

We are committed to developing a Reconciliation Action Plan, and are continuing to work with Reconciliation Australia on our draft Plan.

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 focuses on the conservation of energy within the workplace, including the use of light, computer equipment, water management, transport management and organic recycling. The office recycles toner/printer cartridges, paper and cardboard products, classified waste and cans/tins, bottles and plastic. These strategies are communicated to staff through the office intranet and induction program.

We are also implementing an electronic records management system that should reduce the use of paper in the office.

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

ACT WOMEN'S PLAN

The Ombudsman's office contributes to the achievement 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.

During 2008–09 staff from our specialist Child Support Team and Social Support Team, which deal with complaints about the Child Support Agency and agencies such as Centrelink under the Commonwealth Ombudsman's jurisdiction, gave presentations on their work to the Welfare Rights and Legal Centre and the Women's Legal Service ACT.

