

ACT Ombudsman—Quarterly Report

A REPORT ON THE ACTIVITIES OF THE ACT OMBUDSMAN

1 JULY TO 30 SEPTEMBER 2020

Report by the ACT Ombudsman
Michael Manthorpe PSM

REPORT NO. **4** | 2020

Introduction from ACT Ombudsman

I am pleased to introduce the first ACT quarterly report for 2020–2021.

We entered this quarter with a greater understanding of what was required to continue to operate effectively through the COVID-19 pandemic. Staff began to gradually return to work in their offices, wherever it was safe to do so. We were able to expand our telephone contact hours. The reduced hours of phone operation did not markedly affect the number of complaints and enquiries received, which remained broadly in line with numbers in previous years.

I released one ACT Ombudsman own motion report this quarter – *Investigation into the transparency of commercial land valuation decisions in the ACT*. The report included 11 recommendations, all of which were accepted by the ACT Revenue Office. We are now working with the Revenue Office to support the implementation of these new practices. We are also working with Housing ACT, to support the implementation of the recommendations that arose from the Complaint Assurance Project they participated in earlier this year.

In this quarter, I also released a report as Commonwealth Ombudsman that has significance for the work of the ACT Ombudsman. The report called '*Did they do what they said they would?*'¹ followed up 61 recommendations made in seven investigation reports over a two year period, from July 2017 to July 2019. This report demonstrated the importance of my Office crafting recommendations that clearly define and prioritise the actions to be taken by agencies to influence systemic change in public administration. It also highlighted the value of making the implementation of recommendations part of the ongoing dialogue we have with agencies.

Going forward, my priorities for 2020–2021 are to ensure we continue to improve our service to the ACT community and strengthen awareness of our role, including through the use of social media and virtual engagement. We will focus on improving the awareness and practices of entities in the Reportable Conduct Scheme. My Office will continue to work co-operatively with ACT government agencies to support better complaint handling and the pro-disclosure culture of the *Freedom of Information Act 2016*.

Greater numbers of people are becoming reliant upon receiving government services as the pandemic continues to impact all aspects of life. In these times, it is all the more important that people are freely able to voice their concerns and problems to government agencies and that governments listen and respond, to ensure that services they provide are fair, transparent and lawful.

Michael Manthorpe PSM
ACT Ombudsman

¹ https://www.ombudsman.gov.au/__data/assets/pdf_file/0013/111460/Did-they-do-what-they-said-they-would-report.pdf

CONTENTS

PART 1: OUR STRATEGY IN THE ACT	1
PART 2: COMPLAINT TRENDS	1
PART 3: ACT POLICING	8
PART 4: ENGAGEMENT	9
PART 5: REPORTABLE CONDUCT	11
PART 6: FREEDOM OF INFORMATION (FOI)	15
APPENDIX A	18
APPENDIX B	20

Part 1: OUR STRATEGY IN THE ACT

The role of the ACT Ombudsman is to influence systemic improvement in public administration in the ACT and provide assurance that ACT government agencies within our jurisdiction act with fairness and integrity. We work with agencies to help ensure they provide accessible and effective complaint handling processes to the public.

Priority areas in 2020–21 include:

- ensuring our technology and corporate supports help improve our service to the ACT community
- improving the practices of entities under the Reportable Conduct Scheme
- promoting and supporting the sharing of information related to the Reportable Conduct Scheme
- following up recommendations we made to Housing ACT and the ACT Revenue Office to improve their complaint handling and transparency of decision making
- working with other agencies to ensure effective and co-ordinated oversight of the Alexander Maconochie Centre
- working together with ACT government agencies to improve complaint handling
- supporting the ‘pro-disclosure’ objectives of the *Freedom of Information Act 2016* (FOI Act) and agency compliance with the Open Access Information Scheme
- strengthening our community connections, including through the use of social media and virtual engagement.

Feedback on this report can be provided to Ms Suseela Durvasula, Director of the ACT Strategy and FOI section at ACT.Ombo@ombudsman.gov.au.

Part 2: COMPLAINT TRENDS

Complaints received

In the first quarter of 2020–21, as outlined in Table 1 —ACT complaints received during the first quarter of 2020–21, compared to last financial year, the Office received a total of **159 complaints**, comprising:

- 124 complaints about ACT agencies and general public administration matters
- 29 complaints about ACT Policing
- one complaint about the FOI Act
- four complaints about the ACT Reportable Conduct Scheme
- one complaint about the ACT Integrity Commission.

Table 1 —ACT complaints received during the first quarter of 2020–21, compared to last financial year

Quarter One—Complaints Received	2019–20	2020–21
Complaints received about ACT agencies	125	124
Complaints received about ACT Policing	19	29
Complaints received about the FOI Act	5	1
Complaints received about ACT Reportable Conduct Scheme	6	4
Complaints received about ACT Integrity Commission	N/A	1

Total complaints received	155	159
----------------------------------	------------	------------

Complaints about ACT agencies

Table 2 outlines the complaints received by ACT Directorates, ACT Policing and other independent ACT agencies.²

Table 2— ACT complaints received during first quarter of 2020–21 by agency

Complaints Received by Number and Percentage	Complaints received by directorates, ACT Policing and other independent ACT agencies in the first quarter of 2020–21	Percentage of Complaints received by directorates, ACT Policing and other independent ACT agencies in the first quarter of 2020–21
Community Services Directorate	38	25
Chief Minister, Treasury and Economic Development Directorate	32	21
Justice and Community Safety Directorate	29	19
Transport Canberra and City Services Directorate	9	6
Independent Statutory Offices	7	5
Environment Planning and Sustainable Development Directorate	6	4
Canberra Health Services	1	<1
Health Directorate	1	<1
Education Directorate	1	<1
ACT Policing	29	19
Total complaints received	153	100

The largest number of complaints received in the first quarter of 2020–21 regarding an ACT Directorate were about the Community Services Directorate (CSD). Together, complaints about CSD, the Chief Minister, Treasury and Economic Development Directorate (CMTEDD), and the Justice and Community Safety (JACS) Directorate made up 65 per cent of all complaints about ACT agencies.

² This includes complaints related to the FOI Act. It does not include the Reportable Conduct Scheme, as such complaints can also be made about non-government entities. Reportable Conduct Scheme figures can be found in Part 5 of this report.

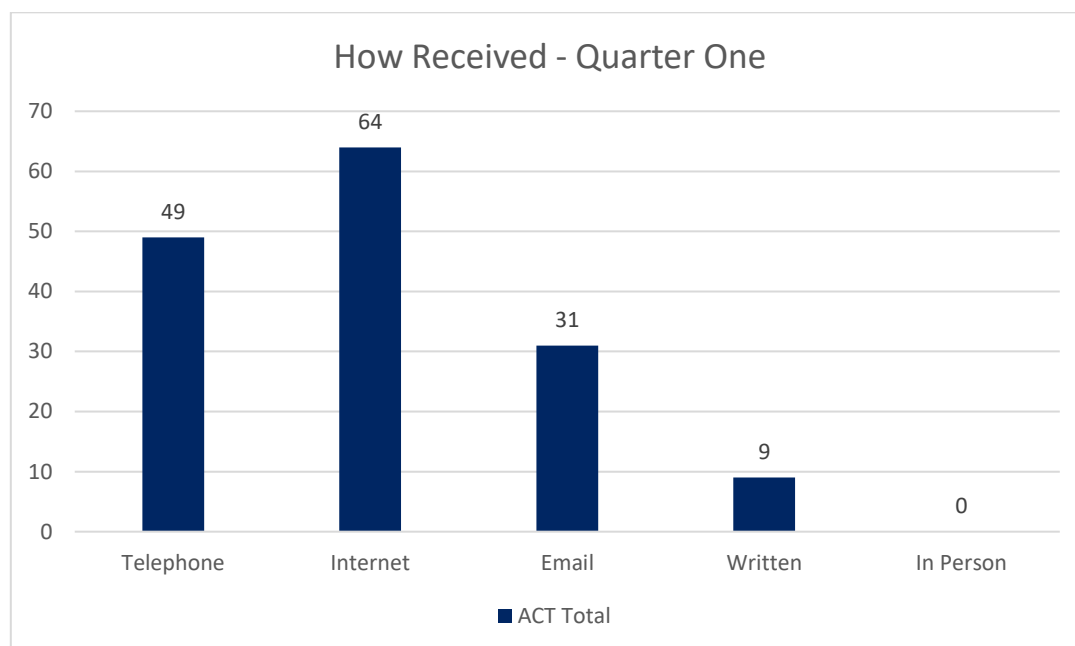
For individual agencies, as opposed to directorates, the largest number of complaints received were about:

- Housing ACT, 33 complaints
- ACT Corrective Services, 28 complaints
- Access Canberra, 18 complaints.

A more detailed table indicating complaints received by individual agencies is provided at **Appendix 1**.

How complaints were received

Figure 1—How ACT complaints were made during the first quarter of 2020–21



In response to COVID-19, we had reduced our phone line hours to 9am to 12pm. As the restrictions to slow the spread of COVID-19 eased in most parts of Australia, in September our phone line hours increased to 10.30am to 3pm. We experienced an increase in complaints made using our online form and by email compared to the same period in 2019–20.

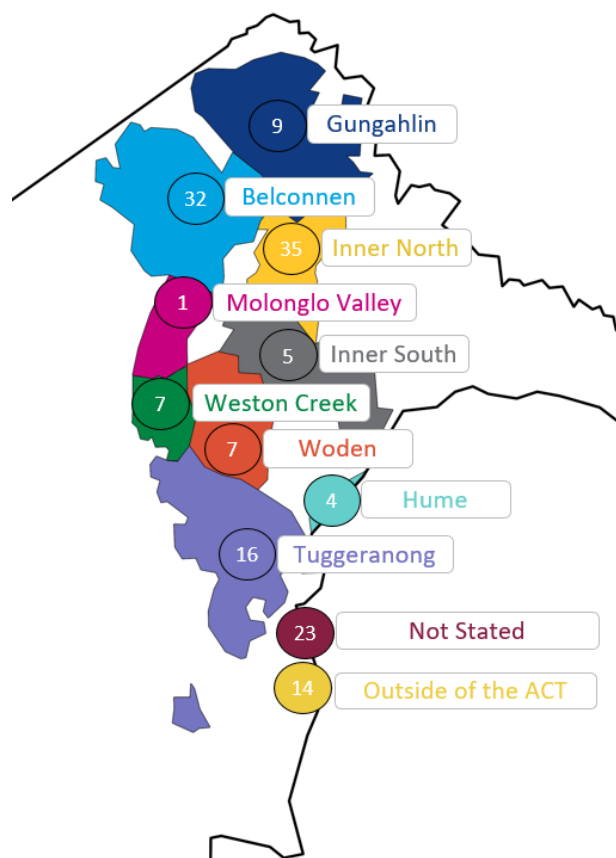
Locations where we received complaints from

Figure 2 provides a breakdown of the **153 complaints** made about ACT agencies and ACT Policing by district.

This quarter, slightly more complaints (35) were received from people in the Inner North than from people in Belconnen (32).

We received 33 complaints from the South Side of Canberra and 14 complaints from outside of the ACT.

Figure 2—Where ACT complaints were made from during the first quarter of 2020–21 by ACT District



Complaints finalised

As outlined in Table 3—ACT complaints finalised during the first quarter 2021–20, compared to Q1 of the previous financial year, in the first quarter of 2020–2021 the Office finalised a total of **135** complaints comprising:

- 101 complaints about ACT government agencies
- 26 ACT Policing matters
- one complaint about the FOI Act
- two complaints about the ACT Integrity Commission
- five complaints about the Reportable Conduct Scheme.

Table 3—ACT complaints finalised during the first quarter 2021–20, compared to Q1 of the previous financial year

Quarter One—Complaints Finalised	2019–20	2020–21
Complaints finalised about ACT agencies	128	101
Complaints finalised about ACT Policing	19	26
Complaints finalised about the FOI Act	1	1
Complaints finalised about ACT Reportable Conduct Scheme	7	5
Complaints finalised about ACT Integrity Commission	N/A	2

Total complaints finalised	155	135
-----------------------------------	------------	------------

Every complaint is assessed to see if it can be resolved quickly or whether a more formal investigation is warranted. Our renewed focus on early resolution provides a better service for complainants.

A number of factors determine how we deal with a complaint, including whether:

- the agency concerned had an opportunity to resolve the complaint or an internal review pathway exists
- another oversight body or a tribunal could provide a better outcome
- a reasonable outcome is available for the complainant.

Positive outcomes for complainants can be achieved with or without a full investigation, such as where we can give a better explanation to the person, based on our knowledge of processes within Directorates and agencies.

Outcomes achieved for investigated complaints

The table at **Appendix B** provides outcomes resulting from investigations finalised this quarter, broken down by ACT government agency.

During this quarter, the Office finalised 13 **investigations**. More than one outcome can be achieved per complaint investigation. The outcomes achieved this quarter include:

- the Ombudsman was able to provide a clearer explanation to the complainant in eight cases
- a clearer explanation was provided by the agency in two cases
- the agency issued an apology in two cases
- a remedy was provided by an agency in one case
- action was expedited in one case
- a decision was changed or reconsidered in one case
- a change to law, policy or practise occurred in two cases.

Case Study

An example of a positive outcome for a complainant following an investigation occurred when a complainant advised our Office they had been waiting for more than a year to receive a response from Access Canberra. Their complaint related to an investigation being conducted by Access Canberra about the definition of 'residents' under the *Retirement Villages Act 2012* and the rights that are associated with being a resident. This definition affected the distribution from a capital works fund.

Following an investigation by our Office, Access Canberra contacted the complainant. Access Canberra apologised for the delay, which was outside their service standards, and advised the investigation had been affected by staffing issues and the pandemic. They provided a clear and comprehensive response to the complainant's questions.

Own Motion Investigation—ACT Revenue Office

On 11 August 2020, the Office published a report, [Transparency of commercial land valuation decisions in the ACT](#) following an investigation into the ACT Revenue Office. Our investigation followed a complaint made by an ACT resident about a 305 per cent increase in the valuation of their commercial property, which increased the rates payable. During the investigation, we identified broader concerns about the way the ACT Revenue Office recorded valuation decisions, including not documenting the reasons for increasing the unimproved value of commercial property in certain circumstances. Our investigation highlighted the impact that lack of transparency and clear reasons for decisions can have on community confidence in government decision-making.

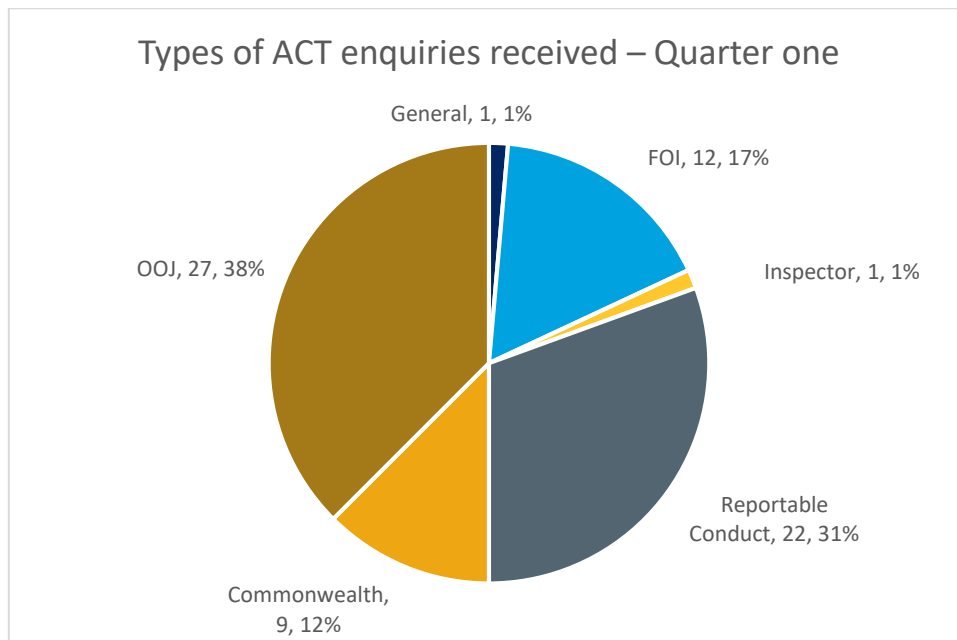
The report made nine recommendations aimed at improving processes for commercial property valuations to ensure they are fair and transparent. The ACT Review Office agreed to all nine recommendations. We will follow up on the implementation of the recommendations over 2020–21.

ACT enquiries

We received **72** enquiries to the ACT Ombudsman through our phone line and electronically in the first quarter of 2020–21. Of these:

- 22 were about the reportable conduct scheme
- 12 were about FOI
- one was about our role as the Inspector of Integrity Commission
- one was a general enquiry related to the work of the ACT Ombudsman
- nine related to the work of the Commonwealth Ombudsman
- 27 were out of jurisdiction (OOJ) for our Office.

Figure 2—Types of enquiries received by the ACT Ombudsman in the first quarter



Performance against service standards

Our Office has service standards in place which apply to complaints we receive about both the Australian Government and ACT Government agencies.³

We aim to resolve 60 per cent of all government complaints within 7 days. We are usually able to achieve this timeframe for routine or simple complaints, but more complex complaints will take longer. This means we may not always meet the 60 per cent target where we receive a higher proportion of more complex complaints.

This quarter, 41.7 per cent of complaints about ACT government agencies were closed within 7 days, with 75.9 per cent of complaints finalised in 30 days. Almost all (99.1 per cent) of our ACT complaints were finalised in 12 months as expected, with approximately 91.7 per cent finalised in 90 days.

We continue to explore ways to deliver efficiencies in complaints management, while ensuring we provide the ACT community with appropriate levels of service where complaints are complex.

New and ongoing complaint trends

In this quarter, Housing ACT (33), ACT Corrective Services (ACTCS) (28) and Access Canberra (18) recorded the three highest numbers of complaints by agency.

The number of complaints about **Housing ACT** (33) increased this quarter, up from 24 complaints in the previous quarter.

The complaints related to similar issues raised previously, including:

- delays in responding to applications for priority housing
- poor and delayed responses to requests for maintenance, including water damage, poor quality heating appliances and little or no insulation in housing properties
- record-keeping issues, including losing documents, applications and requests for review.

This quarter, we made six assisted complaint referrals to Housing ACT. The assisted referral process ensures vulnerable complainants who find it difficult to resolve their housing-related issues are placed in direct contact with the area that can assist them. With co-operation from Housing ACT, we finalised a process for seeking feedback on the outcomes and timeliness of assisted referrals.

Complaints about the **ACTCS** decreased this quarter, from 36 to 28. We continue to receive complaints about a wide range of issues, including:

- unfair and inappropriate demands in relation to virtual visits
- poor quality and out of date food being supplied
- lack of assistance to detainees in relation to financial matters

³ The ACT Ombudsman is also the Commonwealth Ombudsman. The same service standards are used for complaints to the Office of the Commonwealth Ombudsman about Australian government agencies. For more information about our complaint service standards see:

<https://www.ombudsman.act.gov.au/making-a-complaint/what-we-do-with-your-complaint>.

- delays in parole hearings during the pandemic
- difficulty communicating with detainees.

Three complaints were transferred to ACTCS to deal with, under new assisted referral arrangements. Where a complaint concerns the immediate safety, wellbeing or dignity of a detainee or where a detainee is having difficulty accessing the complaints process, they are put in direct contact with the area best able to manage their complaint quickly and effectively. We are working with ACTCS to establish a feedback loop to ensure our Office is updated about the outcome of the complaint and that it is resolved.

Part 3: ACT POLICING

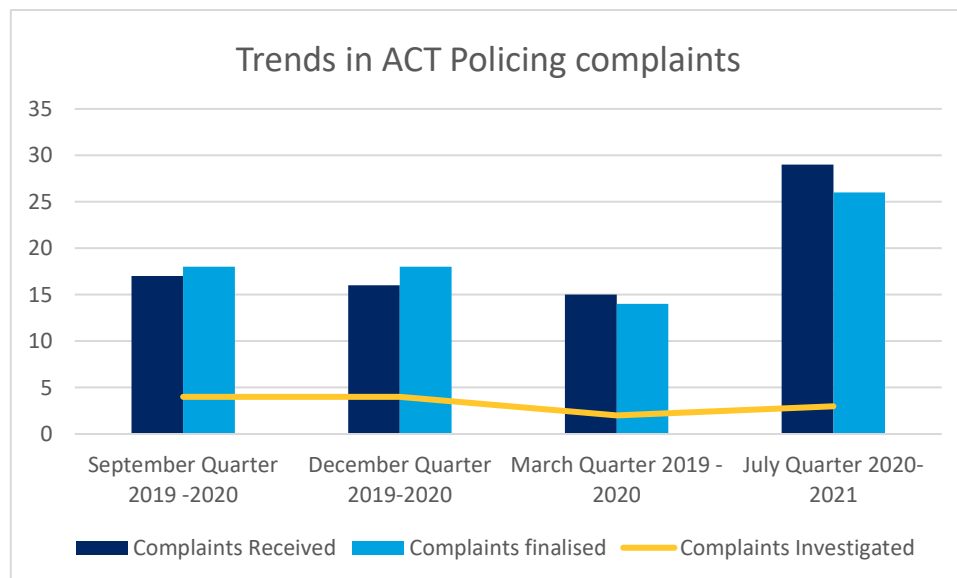
The Ombudsman is able to receive and consider complaints about ACT Policing. As noted above, this quarter we received 29 complaints about ACT Policing and finalised 26 complaints.

ACT Policing complaints increased (29) from the previous quarter (15), returning to complaint volumes that our Office last observed during the April–June quarter of 2017–18. Although this appears to be a marked increase, the complaints received do not identify any significant or systemic areas of concern within ACT Policing. We will continue to monitor this, including to determine whether this increase (which, while high in percentage terms is still modest on raw numbers) is a one-off or indicative of a broader trend.

Of the 26 complaints finalised, three were investigated. The complaints investigated related to customer service, investigation delay and an inappropriate action. A better explanation was provided to the complainant as a result of each of these investigations.

Figure 3 shows the trends in ACT Policing complaints received and finalised over the last four quarters.

Figure 3—Trends in ACT Policing complaints over the period 1 September 2019 to 31 July 2020



The Office is responsible for inspecting ACT Policing records related to the use of certain covert and intrusive powers under ACT legislation. During this quarter we conducted three inspections of ACT Policing under the *Crimes (Surveillance Devices) Act 2010* (ACT), the *Crimes (Controlled Operations) Act 2008* (ACT) and the *Crimes (Child Sex Offenders) Act 2005*

(ACT). The results of these inspections will be included in the ACT Ombudsman’s 2020–21 annual report. The Office’s next inspections of ACT Policing are scheduled in March 2021.

During the last quarter, the Ombudsman appeared via videoconference before the Standing Committee on Justice and Community Safety’s (Standing Committee) Inquiry into an evaluation of current ACT Policing arrangements. This followed a submission our Office made to the Standing Committee in February 2020.⁴

Part 4: ENGAGEMENT

Community Engagement

Most of our community engagement continues to be virtual, but as restrictions ease in the ACT, we will again start to meet in person with community stakeholders. Engaging with the community is an essential part of the work we do. We use these opportunities to gather additional information about systemic issues in the ACT and to promote the role of complaint and review processes in solving problems and improving public administration.

On our Facebook page this quarter, we celebrated and supported a number of events, such as:

- Indigenous Literacy Day
- National Child Protection Week
- International Friendship Day
- RUOK day
- International Non-Binary People Day
- International Access to Information Day.

We released four new fact sheets on our website about:

- dangerous dogs—Common complaints⁵
- planning and Development—Common complaints⁶
- public Trustee and Guardian—Common complaints⁷
- AMC—the role of each of the oversight agencies⁸.

⁴ https://www.ombudsman.act.gov.au/_data/assets/pdf_file/0025/109663/February-2020-ACT-Ombudsman-submission-into-ACT-Policing-and-AFP-inquiry.pdf

⁵ <https://www.ombudsman.act.gov.au/making-a-complaint/common-complaints/dangerous-dogs>

⁶ <https://www.ombudsman.act.gov.au/making-a-complaint/common-complaints/building,-planning-and-development>

⁷ <https://www.ombudsman.act.gov.au/making-a-complaint/common-complaints/public-trustee-and-guardian>

⁸ https://www.ombudsman.act.gov.au/_data/assets/pdf_file/0022/111694/ACTO-Factsheet-AMC-oversight-bodies.pdf

Agency Engagement

In addition to responding to individual complaints, we liaise regularly with Directorates and agencies across the ACT to identify opportunities to influence improvement in public administration. We also engage with other oversight bodies in the ACT, such as the ACT Human Rights Commission, the ACT Integrity Commission and the Inspector General of Corrective Services, along with equivalent bodies in other jurisdictions, such as FOI Commissioners and Inspectors of Integrity Commissions. This allows us to share concerns, avoid duplication, maximise the efficiency of oversight and identify best practice opportunities for our own Office to improve.

Public housing

This quarter saw the completion of the final report from the Complaint Assurance Program into complaint handling practices in Housing ACT. Many of Housing ACT's practices were assessed as best practice, but we also identified opportunities for improvement.

Our Office made five recommendations, all of which were accepted by Housing ACT and the Community Services Directorate. The recommendations related to Housing ACT's internal complaints processing documents, its complaints management systems, training for complaint handlers, communication with complainants and the public and regular review of its complaint handling systems.

Our Office appreciates the co-operation we received from Housing ACT in conducting the investigation.

ACTCS

In relation to our oversight of the prison in the ACT, we:

- published a 'Scatter gun' complaints policy⁹, which outlines new arrangements for managing complaints about the Alexander Maconochie Centre (AMC) that are raised with more than one oversight agency at the same time
- published a fact sheet¹⁰ for detainees held in AMC to help them decide which agency is best placed to help them—this fact sheet was developed in consultation with other AMC oversight agencies.
- commented on the ACTCS visitor policy in response to resumption of social visits
- attended ACTCS Security Awareness training at AMC in preparation to resume visits to AMC by early 2021
- continued to attend regular meetings (virtually) with ACTCS, Official Visitors, the ACT Human Rights Commission and the ACT Inspector of Correctional Services
- attended monthly AMC Women's Reference Group meetings organised by ACTCS
- commenced quarterly liaison meetings with ACTCS to discuss complaint handling processes, concerns identified from complaints and monitor assisted referrals.

ACT Integrity Commission

As Inspector of the ACT Integrity Commission, we received one complaint in relation to this quarter, and finalised the first two complaints.

⁹ https://www.ombudsman.act.gov.au/_data/assets/pdf_file/0021/111459/Scatter-Gun-Complaints-Policy-AMC-oversight-agencies.pdf

¹⁰ https://www.ombudsman.act.gov.au/_data/assets/pdf_file/0022/111694/ACTO-Factsheet-AMC-oversight-bodies.pdf

On 3 September 2020, the ACT Ombudsman and the Integrity Commissioner signed a Memorandum of Understanding to assist both agencies to efficiently manage their respective statutory functions.

We continue to meet regularly with the Commission to review our respective complaint handling processes and to ensure there is no unnecessary duplication.

Part 5: REPORTABLE CONDUCT

Notifications received

This quarter, the Office received **44 initial notifications** from entities about allegations of reportable conduct, with seven of these being notified to ACT Policing.

As outlined in Figure 4 numbers remain steady compared to the previous quarter and the same quarter in the 2019–20 financial year.

Figure 4—Reports received in the first quarter of 2020–21, compared to previous financial year

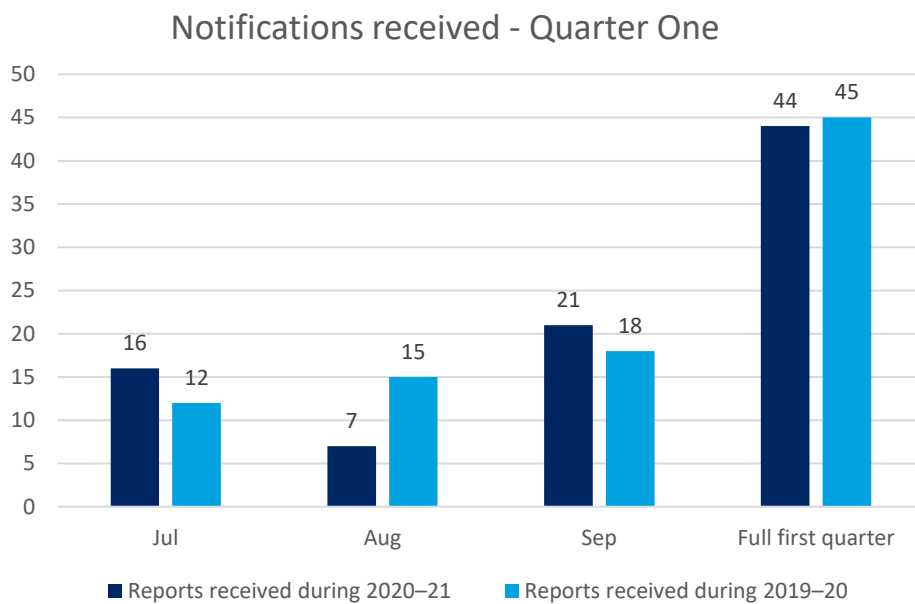


Table 4 outlines the number of notifications received this quarter, by sector.

The largest number of notifications received were from government and non-government schools (26 reports), followed by education and care providers (8 reports) and kinship and foster care sector (5 reports).

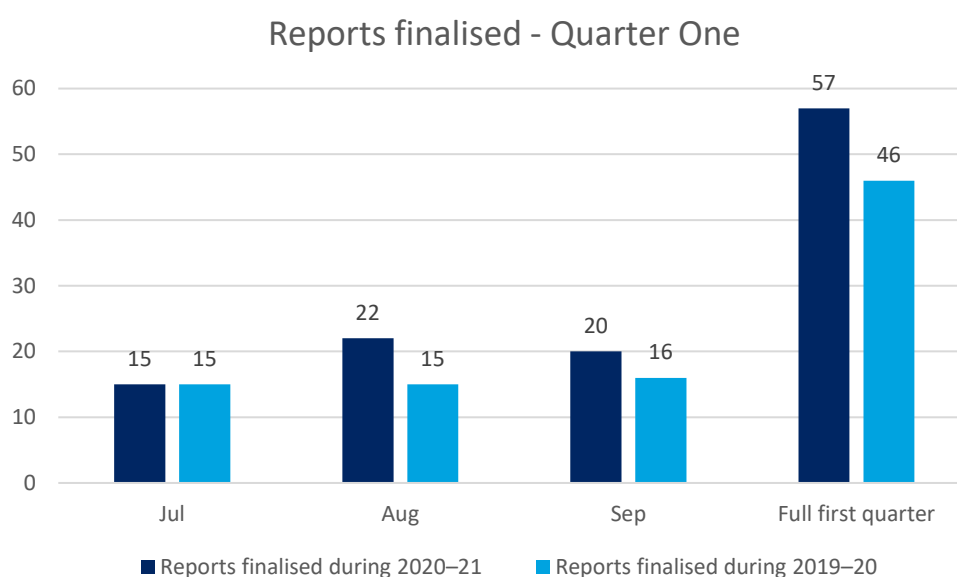
Table 4—Notifications received in the first quarter of 2020–21 by sector

	Notifications received in the first quarter of 2020–21 by sector	Percentage of notifications received in the first quarter of 2020–21 by sector
Government and Non-Government Schools	26	59
Education and Care Service Providers	8	18
Kinship and Foster Care	5	12
Residential Care Organisations	1	2
ACT Directorates	4	9

Reports finalised

In this quarter, as outlined in Figure 5, the Office finalised **57 matters**—a 24 per cent increase in finalised cases compared to the same quarter for the previous financial year. This is an increase on the previous quarter of 29 closures. This increase is a reflection of the measures the Office has put in place to complete matters following the impact of COVID-19 in the previous period.

Figure 5—Reports finalised in the first quarter of 2020–21, compared to previous financial year



After notifying the Office of a reportable conduct allegation(s), an organisation must update the Ombudsman on the outcome of its investigation and the action it has taken as a result. Figure 6 and Table 5 summarise the outcomes for each allegation and the actions taken by organisations, as provided to us in reports, finalised this quarter.¹¹

¹¹ A notification may contain multiple allegations, each having a finding and action recorded.

Figure 6—Outcomes reported by organisations—finalised investigations in the first quarter of 2020–21

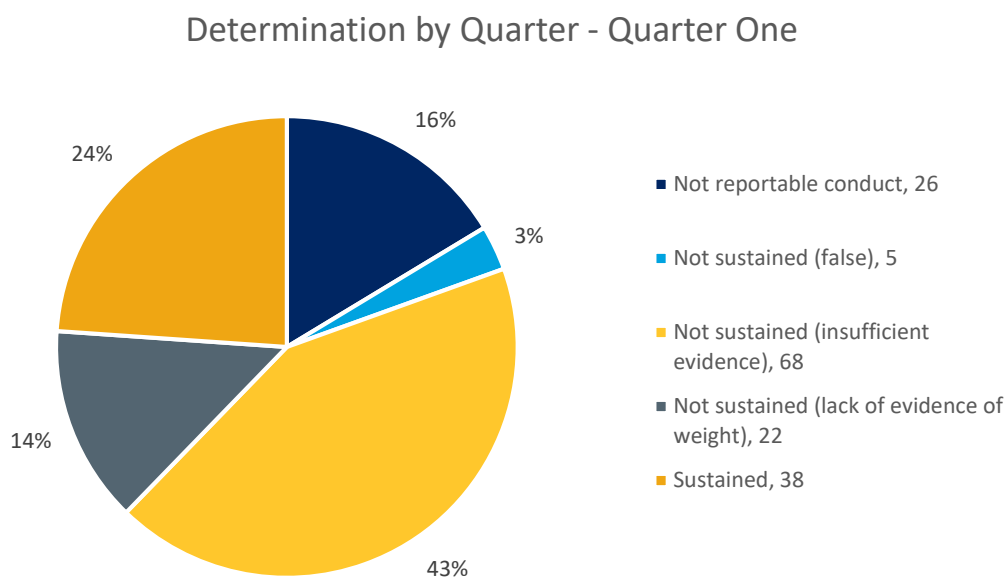


Table 5—Actions taken by organisations—finalised in the first quarter of 2020–21

	Actions taken by organisations—finalised in the first quarter of 2020–21	Percentage of actions taken by organisations—finalised in the first quarter of 2020–21
No action after the investigation process	51	33
Training	43	28
Counselling	18	12
Performance monitoring or managing	18	12
Other forms of disciplinary action as per employer	15	10
Termination	8	5
Letter of warning	3	2

Performance against service standards

Our Office has service standards in place for our Reportable Conduct function.¹²

When we receive a new notification from an organisation about an allegation of reportable conduct (s 17G notification), we assess the initial response by the organisation against criteria such as its reporting to other bodies, its risk assessment and its investigation plan. This allows the organisation to take into account our feedback during its investigation. We aim to do this within seven days in 80 per cent of cases.

This quarter we assessed 81 per cent of initial notifications within seven days.

¹² For further information about Reportable Conduct service standards see: <https://www.ombudsman.act.gov.au/improving-the-act/reportable-conduct>

When we receive a final report from an organisation following its investigation into reportable conduct allegations (s 17J report), we consider whether there was a proper investigation, appropriate action taken and whether we need further information from the organisation. This gives the organisation reasonable opportunity to act on our feedback or provide further information. We aim to complete this within 28 days in 80 per cent of cases.

This quarter we assessed 46 per cent of these assessments within this timeframe. The Office experienced a high influx of final reports from organisations in the last part of 2019–20. This influx of reports resulted in a backlog of s 17J reports to be assessed. We put measures in place, including a risk based approach to triage our assessment of the backlog of s 17J reports. We made good progress on this, noting the high number of closures in this current quarter.

Engagement and monitoring activities

The Office monitors the practices and procedures that organisations put in place for the prevention of reportable conduct and for dealing with reportable allegations and convictions. This quarter we continued providing feedback on policies, practices and procedures through our casework and liaison meetings.

The Office has begun planning how we will deliver our information sessions and explore training opportunities for organisations, taking into account the restrictions imposed by COVID-19 precautions.

This quarter we maintained regular liaison with the Education Directorate, CMTEDD and the Senior Practitioner. We attended the Children and Young People Oversight Agencies Group convened by the Public Advocate and the Children & Young People Commissioner and the Bimberi Oversight Group convened by CSD. We also participated in two roundtable discussions with stakeholders that were hosted by the Teacher Quality Institute and the Office of the Senior Practitioner.

Part 6: FREEDOM OF INFORMATION (FOI)

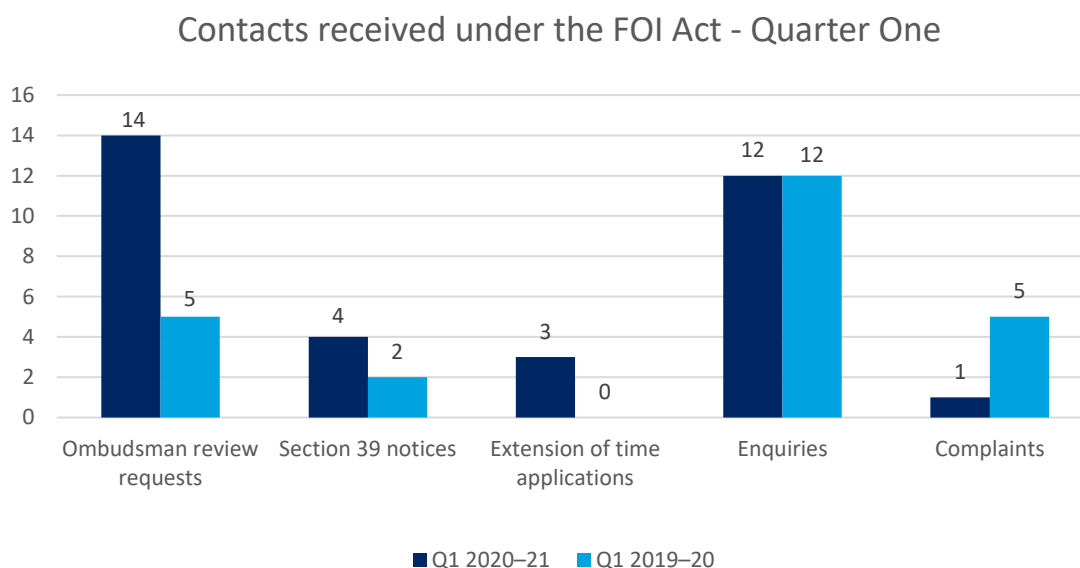
FOI contacts received

As outlined in Figure 7, the Office received **34 contacts** about our role under the FOI Act during the first quarter of 2020–21, which is an increase on the 18 contacts received in the previous quarter.

This comprised:

- 14 applications for Ombudsman review
- four s 39 notices (notices given to the Ombudsman to advise that a decision on an access application was not made in time)
- three extension of time requests
- 12 enquires
- one complaint.

Figure 7—Contacts received under the FOI Act in the first quarter of 2020–21, compared to the fourth quarter of 2019–20



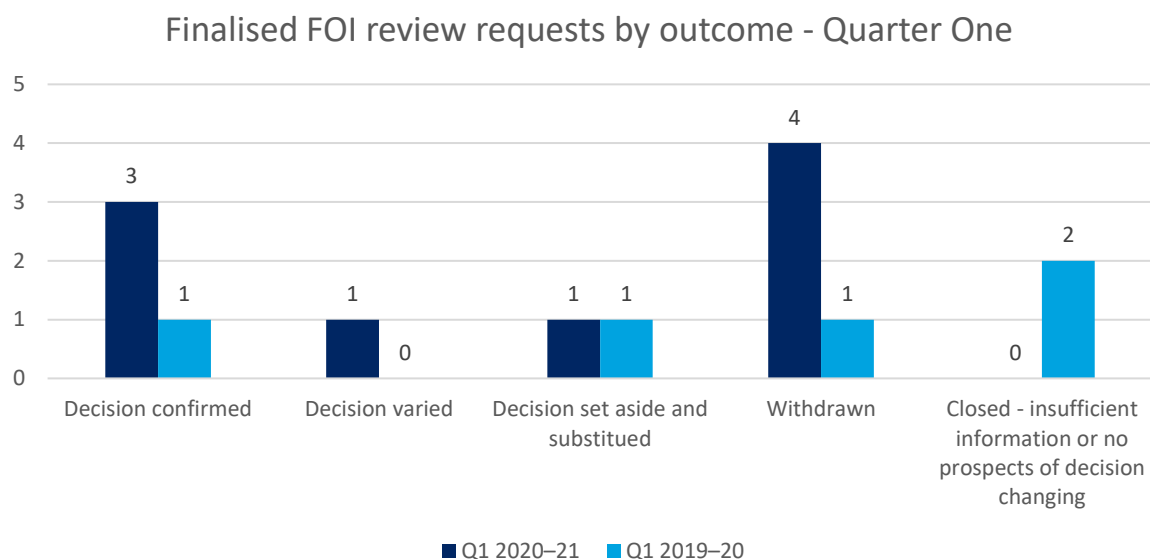
Finalised FOI reviews

As shown in Figure 8, the Office finalised **nine Ombudsman reviews** this quarter.

The outcomes of these reviews were:

- the original decision was **confirmed** in three cases
- the original decision was **varied** in one case
- the original decision was **set aside** in one case
- four matters were **withdrawn** by the applicant following informal resolution activities.

Figure 8—FOI review requests finalised in the first quarter of 2020–21, compared to the first quarter of 2019–20



Performance against service standards

Our Office has service standards in place for our FOI review applications.¹³

This quarter, we met one of the three standards with:

- 22 per cent of FOI review matters finalised within 6 weeks (under the standard of 30 per cent)
- 56 per cent finalised in 12 weeks (below the standard of 60 per cent)
- 100 per cent finalised in six months.

FOI review matters can generally be finalised in six weeks where informal resolution is successful. Our ability to meet the 30 per cent service standard is expected to vary depending on the amount of cases that are able to be finalised through informal resolution processes. In this quarter, we fell just under this service standard, with four of the nine matters informally resolved.

Where a formal decision is required, routine matters are expected to take 12 weeks to finalise and complex matters can take longer.

Published decisions

At 30 September 2020, we have published **52 decisions** on the ACT Ombudsman website.¹⁴

Five of these decisions were published during this reporting period. Publication of decisions provides agencies and applicants with guidance on the FOI Act, including the application of the public interest test.

¹³ For more information on Freedom of Information service standards see: <https://www.ombudsman.act.gov.au/improving-the-act/freedom-of-information/foi-complaints-and-reviews>

¹⁴ See <http://www.ombudsman.act.gov.au/improving-the-act/freedom-of-information/foi-review-decisions>

In this period, we also published accessible HTML versions of the FOI guidelines on the ACT Ombudsman website. These were created for FOI practitioners to use and navigate more easily and are available here:

1. Ombudsman Guidelines - Open access information¹⁵
2. Ombudsman Guidelines - Informal Requests for Government Information¹⁶
3. Ombudsman Guidelines - Dealing with access applications¹⁷
4. Ombudsman Guidelines - Considering the public interest¹⁸
5. Ombudsman Guidelines - Amending personal information¹⁹
6. Ombudsman Guidelines - Ombudsman Reviews.²⁰

Open Access and engagement

This quarter we launched a quarterly newsletter for FOI practitioners in the ACT. The newsletter provides updates on current events, discuss trends arising from Ombudsman reviews and gives tips to FOI practitioners in dealing with access applications.

In this period, we circulated two FOI newsletters. The first focused on emerging issues in FOI, best practice tips and extensions of time applications.²¹ The second was circulated on 28 September 2020, International Access to Information day, in order to raise awareness of the day and provide information and advice to practitioners about Open Access requirements.

In addition to the newsletter, and to mark International Access to Information day, the Ombudsman released a joint statement with Information Commissioners and Ombudsman across Australia and New Zealand.²² The joint statement stressed the importance of transparency and access to government held information during times of crisis. We also participated in a webinar with Australian Information Commissioners and Ombudsman to discuss the Open by Design (right to know) commitment.

We are planning how to deliver information sessions for FOI practitioners for the remainder of 2020–21, taking into account COVID-19 restrictions.

¹⁵ See <https://www.ombudsman.act.gov.au/publications/foi-guidelines/open-access-information-01>

¹⁶ See <https://www.ombudsman.act.gov.au/publications/foi-guidelines/2.-ombudsman-guidelines-informal-requests-for-government-information>

¹⁷ See <https://www.ombudsman.act.gov.au/publications/foi-guidelines/3.-ombudsman-guidelines-dealing-with-access-applications>

¹⁸ See <https://www.ombudsman.act.gov.au/publications/foi-guidelines/4.-ombudsman-guidelines-considering-the-public-interest>

¹⁹ See <https://www.ombudsman.act.gov.au/publications/foi-guidelines/5.-ombudsman-guidelines-amending-personal-information>

²⁰ See <https://www.ombudsman.act.gov.au/publications/foi-guidelines/6.-ombudsman-guidelines-ombudsman-reviews>

²¹ See <https://mailchi.mp/ombudsman.gov.au/the-first-act-ombudsman-foi-newsletter?e=8d0c53881d>

²² See <https://www.ombudsman.act.gov.au/publications/media/2020/joint-statement-on-international-access-to-information-day-2020>

APPENDIX A

Complaints received by Directorate and agency for the first quarter of 2020–21

Directorate/Agency	Total received	Total finalised	Finalised with investigation	Finalised without investigation
Canberra Health Services	1	1	1	-
Chief Minister, Treasury and Economic Development Directorate	32	27	3	24
Access Canberra	18	17	3	14
ACT Revenue Office	5	5	-	5
Canberra Institute of Technology	1	-	-	-
University of Canberra	6	5	-	5
Chief Minister, Treasury and Economic Development - other agencies ²³	2	-	-	-
Community Services Directorate	38	29	-	29
Housing ACT	33	25	-	25
Community Services - other agencies ²⁴	5	4	-	4
Education Directorate	1	1	-	1
Environment Planning and Sustainable Development Directorate	6	3	-	3
Health Directorate	1	1	-	1
Justice and Community Safety Directorate	29	26	4	22
ACT Corrective Services	28	25	3	22
Justice and Community Safety - other agencies ²⁵	1	1	1	-
Transport Canberra and City Services Directorate	9	7	2	5
Transport Canberra and City Services	9	7	2	5

²³ Other agencies refer to the multiple smaller agencies that make up the Directorate

²⁴ Other agencies refer to the multiple smaller agencies that make up the Directorate

²⁵ Other agencies refer to the multiple smaller agencies that make up the Directorate

ACT Ombudsman—Quarterly report, 1 July to 30 September 2020

Directorate/Agency	Total received	Total finalised	Finalised with investigation	Finalised without investigation
Independent statutory offices	7	6	-	6
ACT Court or Tribunal	1	1	-	1
ACT Human Rights Commission	-	-	-	-
ACT Electoral Commission	1	1	-	1
Director of Public Prosecutions	1	1	-	1
Legal Aid ACT	-	-	-	-
Public Trustee and Guardian for the ACT	4	3	-	3
Prescribed authorities	-	-	-	-
ACT Law Society	-	-	-	-
Territory-owned corporations	-	-	-	-
ACT Long Service Leave Authority	-	-	-	-
Icon Water	-	-	-	-
Total ACT Government	124	101	10	91
ACT Policing	29	26	3	23
Total ACT	153	127	13	114

APPENDIX B

Outcomes of finalised complaint investigations by agency and outcome for first quarter of 2020–21

Directorate or agency	Investigations finalised	No remedy	Action expedited	Apology	Change to law, policy or practice	Decision changed or reconsidered	Better explanation by Ombudsman	Better explanation by agency	Agency officer counselled/ disciplined	Remedy provided by agency	Penalty waived or reduced	Total positive remedies achieved
Canberra Health Services	1	-	-	-	1	-	-	-	-	-	-	1
Chief Minister, Treasury and Economic Development Directorate	3	-	1	2	1	1	1	1	-	-	-	7
Access Canberra	3	-	1	2	1	1	1	1	-	-	-	7
ACT Revenue Office	-	-	-	-	-	-	-	-	-	-	-	-
Canberra Institute of Technology	-	-	-	-	-	-	-	-	-	-	-	-
University of Canberra	-	-	-	-	-	-	-	-	-	-	-	-
Chief Minister, Treasury and Economic Development - other agencies ²⁶	-	-	-	-	-	-	-	-	-	-	-	-
Community Services Directorate	-	-	-	-	-	-	-	-	-	-	-	-
Housing ACT	-	-	-	-	-	-	-	-	-	-	-	-
Community Services - other agencies ²⁷	-	-	-	-	-	-	-	-	-	-	-	-
Education Directorate	-	-	-	-	-	-	-	-	-	-	-	-
Environment Planning and Sustainable Development Directorate	-	-	-	-	-	-	-	-	-	-	-	-
Health Directorate	-	-	-	-	-	-	-	-	-	-	-	-
Justice and Community Safety Directorate	4	2	-	-	-	-	3	1	-	1	-	7
ACT Corrective Services	3	2	-	-	-	-	2	-	-	1	-	5
ACT Emergency Services Agency	-	-	-	-	-	-	-	-	-	-	-	-
Justice and Community Safety – other agencies ²⁸	1	-	-	-	-	-	1	1	-	-	-	2

²⁶ Other agencies refer to the multiple smaller agencies that make up the Directorate

²⁷ Other agencies refer to the multiple smaller agencies that make up the Directorate

²⁸ Other agencies refer to the multiple smaller agencies that make up the Directorate

ACT Ombudsman—Quarterly report, 1 July to 30 September 2020

Directorate or agency	Investigations finalised	No remedy	Action expedited	Apology	Change to law, policy or practice	Decision changed or reconsidered	Better explanation by Ombudsman	Better explanation by agency	Agency officer counselled/ disciplined	Remedy provided by agency	Penalty waived or reduced	Total positive remedies achieved
Transport Canberra and City Services Directorate	2	-	-	-	-	-	2	-	-	-	-	2
Transport Canberra and City Services - other agencies ²⁹	2	-	-	-	-	-	2	-	-	-	-	2
Independent statutory offices	-	-	-	-	-	-	-	-	-	-	-	-
ACT Court or Tribunal	-	-	-	-	-	-	-	-	-	-	-	-
ACT Human Rights Commission	-	-	-	-	-	-	-	-	-	-	-	-
Director of Public Prosecutions	-	-	-	-	-	-	-	-	-	-	-	-
Legal Aid ACT	-	-	-	-	-	-	-	-	-	-	-	-
Public Trustee and Guardian for the ACT	-	-	-	-	-	-	-	-	-	-	-	-
Prescribed authorities	-	-	-	-	-	-	-	-	-	-	-	-
ACT Law Society	-	-	-	-	-	-	-	-	-	-	-	-
Territory-owned corporations	-	-	-	-	-	-	-	-	-	-	-	-
ACT Long Service Leave Authority	-	-	-	-	-	-	-	-	-	-	-	-
ICON Water	-	-	-	-	-	-	-	-	-	-	-	-
Total ACT Government	10	2	1	2	2	1	6	2	-	1	-	15
ACT Policing	3	1	-	-	-	-	2	-	-	-	-	2
Total ACT	13	3	1	2	2	1	8	2	-	1	-	17

²⁹ Other agencies refer to the multiple smaller agencies that make up the Directorate