



Annual Report 2022–2023

Pursuing fairness for
the people of NSW.

Letter to the Legislative Assembly and Legislative Council

30 October 2023

The Hon Ben Franklin, MLC
President
Legislative Council
Parliament House
SYDNEY NSW 2000

The Hon Greg Piper, MP
Speaker
Legislative Assembly
Parliament House
SYDNEY NSW 2000

Dear Mr President and Mr Speaker

I am pleased to present the 2022–23 annual report of the NSW Ombudsman's Office, which covers the period of 12 months ending 30 June 2023.

This report is presented in accordance with section 30 of the *Ombudsman Act 1974* which includes the financial report for the period of 12 months ending 30 June 2023. It also addresses the office's annual reporting requirements in the following:

- *Government Sector Finance Act 2018* (division 7.3)
- *Public Interest Disclosures Act 1994* (section 31)
- *Government Information (Public Access) Act 2009* (section 25).

In accordance with section 31AA of the *Ombudsman Act 1974*, I recommend that this report be made public immediately.

Yours sincerely



Paul Miller
NSW Ombudsman





Our purpose

We pursue fairness for the people of New South Wales.

Our vision

Our vision expresses what we ultimately want to see in the world: *Everyone receives the right services and fair treatment from those we oversight.*

Our values

Our values describe the core behavioural principles that we live by and apply to everything we do.



Integrity



Impartiality



Fairness



Transparency



Professionalism



Respect

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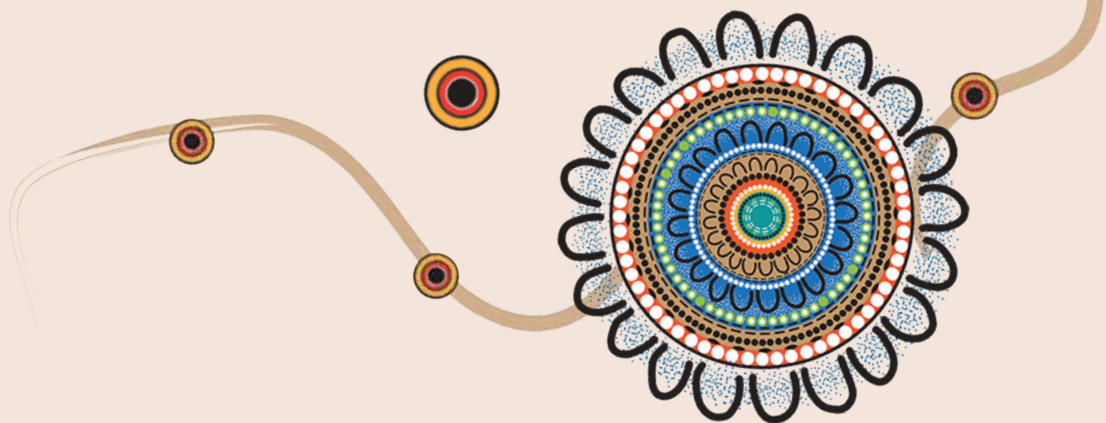
Acknowledgement of Country

We acknowledge the traditional custodians of the land of New South Wales on which our people live and work.

We pay our respects to all Elders past and present, and to the children of today who are the Elders of the future.



Artist: Jasmine Sarin, a proud Kamilaroi and Jerrinja woman
2019





Ombudsman's message

I am pleased to present my third annual report as New South Wales Ombudsman. This is also the third year of operation of our five-year *Strategic Plan 2020-25*, as we head toward 2025 and the 50th anniversary of our office.

This year we commenced a significant period of transformation as we began to address what I had described, in my first annual report (2020–21), as a situation of chronic underfunding. At that time, a lack of adequate baseline resourcing was impacting our ability to perform core statutory functions. It had also led to a long-term underinvestment in legacy technologies, service-delivery modes and processes.

When we adopted our strategic plan in July 2020, we set a pathway to pursue our strategic priorities and increase our accessibility and impact. Our initial focus was on strengthening our internal systems, processes and governance, within existing resources. Many of the subsequent initiatives described in the plan, however, were inherently subject to obtaining the budget funding needed to re-establish the office on a sustainable footing.

I am pleased that, from the 2022 budget, our business cases for additional funding were accepted by Treasury and subsequently by Parliament. These have included enhanced baseline funding to support core statutory functions (such as complaint-handling) and additional funding for new statutory functions that have been conferred on us by Parliament (such as our work in preparing the sector for the new *Public Interest Disclosures Act 2022*), as well as a variety of one-off project funding to support the replacement of legacy systems, improve our digital accessibility and uplift cyber security.

Almost all the funding that we receive is used to employ the staff who provide our services. Our staffing levels had been in decline in recent

years following the transfer of certain functions (such as police oversight and child protection reportable incidents) to other agencies. The loss of those functions, and the resourcing associated with them, exposed the extent to which other functions of the office, including core Ombudsman functions of complaint-handling and investigations, had been under-resourced for a long period of time. As a consequence of the recent enhanced funding, our staffing levels are now returning to levels closer to those prior to 2018.

This has meant that much of the strategic and leadership focus of our office this year has been on staff recruitment and development, commencing transformational projects that include replacing our online complaint portal and developing a new case management system, as well as developing and rolling out new operating models for new statutory functions, such as those conferred by the new public interest disclosures scheme and the *Mandatory Disease Testing Act 2021*.

While the impact of this work on our strategic outcomes will necessarily take some time to flow through, already this year we are beginning to see improvements in performance. Actionable complaints to us are increasing. More importantly, the number of complaints on which we have been able to undertake further investigatory action has increased substantially, with preliminary inquiries, conciliation or other investigatory actions taking on 2,685 complaints in 2022–23, a 69% increase from the previous year (compared with 1,588 in 2021–22). Of the complaints taken on, we commenced 10 formal wrong conduct investigations (compared with 1 investigation commenced in the previous year).

At its half-way point, we took the opportunity to review the now funded strategic plan. The review has led us to articulate more clearly the four key outcomes we seek to pursue as the state's parliamentary Ombudsman:

- (1) effectively resolving complaints to the satisfaction of complainants
- (2) holding public authorities and community service providers to account for serious wrong conduct
- (3) promoting improvements in public administration and community services
- (4) providing support to Parliament in the exercise of its functions.

Most of our functions contribute in some way to all these outcomes, which reflects the multiple stakeholders to whom we have responsibilities — the public, the agencies we oversight and the Parliament to whom we ultimately report.

Often these four outcomes are complementary and reinforcing — investigating an agency's wrongdoing may simultaneously resolve a complaint (outcome 1), hold the agency to account (outcome 2), lead to recommendations for future improvements (outcome 3) and provide information to Parliament that will support its own oversight of the government and consideration of potential reforms (outcome 4).

However, it must also be recognised that, taken to extremes, the outcomes could be in tension and, as an Ombudsman, it is imperative that all the outcomes are pursued. Supporting agencies through educative and collaborative public sector improvement work (driving outcome 3) is, for example, an essential part of an Ombudsman's role, but it must also be done in a way that is consistent with the Ombudsman's ability and willingness to identify and call out wrong conduct when they see it (outcome 2).

Likewise, an Ombudsman that is seen by agencies as only interested in apportioning blame in high profile investigations (outcome 2) may find it more challenging to develop the working relationships with agencies necessary to resolve complaints effectively and efficiently (outcome 1), or to obtain agreement on system improvements (outcome 3).

In this report we summarise how our work this year has sought to deliver these outcomes. We have also begun to implement feedback systems to better measure and report on the extent to which these outcomes are being achieved. This includes developing a draft set of new KPIs against which to track our performance.

As noted above, almost all the resourcing for my office is, appropriately, devoted to the people of this office, who are purpose-driven, dedicated and hardworking in the discharge of our functions. I extend my sincerest thanks to all staff, as we continue to pursue fairness for the people of NSW and our vision that everyone receives the right services and fair treatment from those we oversight.

Paul Miller
NSW Ombudsman

1 Overview



1.1 The NSW Ombudsman

The NSW Ombudsman is an independent integrity agency which pursues fairness for the people of NSW. We strive to ensure that those entrusted with public power and resources fulfil their responsibilities and treat everyone fairly.

One of our central functions is to receive and respond to complaints from the public about NSW public authorities and community service providers funded by the NSW Government. Anyone can contact us to complain if they believe they have been treated unfairly by any of the bodies we can handle complaints about, or to report concerns about possible maladministration. Our services are free to the public. We are fully independent and we act impartially in the public interest. People who complain to us are protected by law if anyone tries to retaliate against them. Additional protections apply for public official whistleblowers who report serious wrongdoing to us under the *Public Interest Disclosures Act 2022*.

We can investigate when we suspect serious maladministration, whether as a result of complaints or reports we have received or, on our own motion. Maladministration is when administrative decisions or actions are unlawful,

unjust, unreasonable, improperly discriminatory or otherwise ‘wrong’. We can also investigate and make findings when an administrative decision or action is lawful and in accordance with policy, but where the law or policy is itself unjust, unreasonable or improperly discriminatory.

As well as dealing with complaints and investigating serious wrongdoing, we also proactively monitor and review certain public and community sector services and systems. We can:

- monitor and assess the delivery of the NSW Government’s Aboriginal programs
- oversight the operation of the public interest disclosures (PID) scheme
- monitor and review the provision of NSW Government-funded community services
- review the systems and practices that public authorities and service providers themselves use to deal with the complaints they receive
- monitor the operation of the mandatory disease testing scheme
- receive notifications when children and young people are segregated in detention.

We also review the deaths of certain children, and convene the Child Death Review Team, which registers and conducts research on child

deaths in NSW. Our focus in this work is on the child protection, health and other public and community services systems, with a view to identifying lessons and improvements that may prevent or reduce the risk of future deaths.

In connection with these functions, we aim to support public sector agencies and community service providers by providing guidance and training, with a view to helping them to improve their services and avoid maladministration in the future.

We must conduct most of our complaint-handling, investigations and other functions confidentially. However, as an independent integrity agency we report directly to Parliament. We are required to report to Parliament periodically on our various work and activities, and we can also make a special report to Parliament at any time on any matter of public interest relating to our functions.

Through all of these activities, we pursue our vision: *Everyone receives the right services and fair treatment from those we oversight.*

The principal legislation under which we currently operate is:

- *Ombudsman Act 1974* (**Ombudsman Act**)
- *Community Services (Complaints, Reviews and Monitoring) Act 1993* (**CS CRAMA**)
- *Mandatory Disease Testing Act 2021* (**MDT Act**)
- *Public Interest Disclosures Act 2022* (**PID Act**), which replaced the 1994 Act from 1 October 2023.

Our statutory functions

Complaint-handling

We receive complaints over the phone, in person or in writing, including via our online complaint form.

Any person can complain to us about:

- the conduct of a ‘public authority’: any action or inaction, or alleged action or inaction, relating to a matter of administration (unless it is excluded conduct) — Ombudsman Act
- the conduct of ‘service providers’ with respect to the provision, failure to provide, withdrawal, variation or administration of a community service — CS CRAMA.

We can also receive and deal with PIDs about serious wrongdoing in the public sector reported to us about public officials under the PID Act. Such a disclosure could be both a PID (under the PID Act) and a complaint (under the Ombudsman Act).

We can generally deal with complaints about the conduct of:

NSW state government departments

As at the date of this report, there are 11 principal departments:

- (1) Premier’s Department (which includes Aboriginal Affairs NSW)
- (2) The Cabinet Office
- (3) Department of Regional NSW
- (4) Department of Enterprise, Investment and Trade
- (5) Treasury
- (6) NSW Health
- (7) Department of Education
- (8) Department of Communities and Justice (DCJ) (which includes Housing NSW)
- (9) Department of Transport
- (10) Department of Customer Service (which includes Revenue NSW, NSW Fair Trading, Cyber Security NSW and SafeWork NSW)
- (11) Department of Planning and Environment (which includes Office of Local Government).

Local health districts, health specialty networks and hospitals

Public schools, TAFE NSW and other statutory education bodies

These include TAFE Digital and the NSW Education Standards Authority.

Other NSW government entities in our jurisdiction, which include:

- NSW Government agencies — such as Fire and Rescue NSW, and Office of Sport
- statutory bodies — such as NSW Trustee and Guardian, Rental Bond Board, Health Care Complaints Commission, NSW Land and Housing Corporation, Service NSW, the Art Gallery of NSW and other NSW cultural agencies

- state-owned corporations — such as Sydney Water, WaterNSW, Essential Energy and Landcom
- public universities established under NSW legislation.

Local government

This includes councils, county councils and joint organisations. We can handle complaints about the conduct of councillors and council employees, and the administrative conduct of the council itself.

Custodial services

This includes Corrective Services NSW and Youth Justice NSW (Youth Justice) (both of which are divisions of DCJ), and the Justice Health and Forensic Mental Health Network. We can also deal with complaints about the state’s privately-run correctional centres.

Community service providers

Under CS CRAMA, we handle complaints about:

- services provided under community welfare legislation by DCJ
- services provided by entities that are funded, authorised or licensed by the Minister for Families and Communities, the Minister for Seniors and certain other entities.

This includes the following types of services and service providers:

- child protection
- out-of-home care (OOHC) and permanency support
- early intervention and family support services
- short-term accommodation and homelessness support.

Own motion matters

We can examine conduct of the agencies and officials referred to above even if we have not received a specific complaint about that conduct.

Inquiries or investigations initiated by us (‘own motion’ matters) can arise from information that comes to our attention through a range of means, including our various monitoring functions and our community engagement activities.

What we cannot do

Our Act prevents us from receiving and handling certain complaints. For example, we cannot deal with complaints about the conduct of:

- government ministers
- Parliament and members of Parliament
- judges and courts
- NSW Police Force (complaints about which can now be made to the Law Enforcement Conduct Commission).

We cannot deal with complaints about the Australian Government and its agencies. The Commonwealth Ombudsman is the corresponding ombudsman at the Commonwealth level to receive complaints about Commonwealth agencies.

We generally cannot deal with complaints about private companies or individuals. In some industries there is a dedicated ‘industry ombudsman’ who can handle such complaints, such as the NSW Energy and Water Ombudsman and the Australian Telecommunications Industry Ombudsman.

If people contact us with a complaint that we are not able to handle, we will help them find the right place for their complaint.

Investigation

Most complaints do not result in an investigation under the Ombudsman Act. Generally, only those complaints or own motion inquiries that identify potentially serious or systemic maladministration are investigated.

Our investigation reports include any findings of wrong conduct and may include recommendations for action.

Review of agencies’ complaint-handling systems

Public authorities and community service providers will have their own systems for handling complaints. Agencies have their own complaint management systems. We usually expect people to contact the agency first about their complaint before making a complaint to us. If this is hard to do or someone does not feel safe doing this, we help them.

Complaints often come to us because an agency's systems have failed to result in a satisfactory resolution of the complaint.

Under the Ombudsman Act (for public authorities) and CS CRAMA (for service providers), as well as handling individual complaints, we are able to conduct a proactive review into a complaint-handling system, to ensure it is functioning effectively and fairly, and in accordance with good practice.

Monitoring and assessment of Aboriginal programs

We have an express legislative function to monitor and assess designated 'Aboriginal programs'. The Aboriginal Deputy Ombudsman leads this function.

Under Part 3B of the Ombudsman Act we have responsibility for overseeing OCHRE (Opportunity, Choice, Healing, Responsibility, Empowerment) — the NSW Government's overarching plan for Aboriginal affairs, which was launched in April 2013 and is coordinated by the Premier's Department (Aboriginal Affairs NSW). OCHRE commits the NSW Government to working with, and in support of, Aboriginal communities by building strong working partnerships, which have at their heart respect for local Aboriginal culture, leadership and decision-making.

Our office monitors and assesses OCHRE by engaging with key stakeholders, visiting communities and attending community forums. We then provide feedback to OCHRE agencies and partners to enable them to address any issues raised early on, adopt good practices and achieve the plan's goals.

We also table public reports on OCHRE in Parliament as required. This is an important part of the accountability framework for OCHRE and an Australian first — as NSW was the first to establish a dedicated Ombudsman oversight function for Aboriginal programs, and the first to provide for the appointment of an Aboriginal Deputy Ombudsman.

Oversight of public interest disclosures scheme

The Ombudsman has responsibility to oversee the PID Act. The PID Act commenced on 1 October 2023, replacing the previous *Public Interest Disclosures Act 1994*. We had similar functions under the previous Act.

Our functions under the PID Act include:

- to promote public awareness and understanding of the PID Act and to promote its objectives
- to provide information, advice, assistance and training to public authorities, investigating authorities and public officials on any matters relevant to the PID Act
- to issue guidelines and other publications to assist public authorities, investigating authorities and public officials
- to monitor, and provide reports to Parliament on, the exercise of functions under the PID Act and compliance with the PID Act by public authorities
- to audit, and provide reports to Parliament on, the exercise of functions under the PID Act and compliance with the PID Act by public authorities
- to provide reports and recommendations about proposals for legislative and administrative changes to further the objectives of the PID Act.

The Ombudsman also chairs and provides secretariat support to the PID Steering Committee, which provides advice on the operation of the PID system and on possible legislative reforms.

Community services monitoring, reviews and inquiries

Under CS CRAMA we monitor and review the delivery of community services. This includes community services that are provided by the non-government sector with funding or authorisation from the NSW Government.

Our functions include:

- to review, on application or on the Ombudsman's initiative, the situation of a child or a person in care (or a group of children or people in care)
- to monitor and review the delivery of community services, inquire into matters affecting service providers and receivers, and make recommendations for improvements in the delivery of community services
- to review and report on the systems of community service providers for handling complaints.

Mandatory disease testing

We monitor and report on the operation and administration of the MDT Act, including how agencies exercise their functions under the Act. The Act provides for the mandatory blood testing of a person. This can occur when the person's bodily fluid comes into contact with a health, emergency or public sector worker:

- as the result of the person's deliberate action, and
- the worker may be at risk of contracting a blood-borne virus.

Agencies must notify us after determining a mandatory testing order application. The Chief Health Officer must also notify us following determination of a review.

Reviewing the deaths of children

Under Part 6 of CS CRAMA, we review deaths of children who were in care or detention, and children who died as a result of abuse or neglect, or whose death occurred in circumstances suspicious of abuse or neglect.

Under Part 5A of CS CRAMA we also convene and support the NSW Child Death Review Team (CDRT), which examines and maintains a register of all deaths of children in NSW and undertakes research to prevent or reduce the risk of child deaths in the future.

Monitoring the segregation of detainees in youth detention

Under the *Children (Detention Centres) Regulation 2015*, Youth Justice is required to notify us if a young person in detention is segregated for more than 24 hours. We are also notified if a young person is separated for more than 24 hours (for example, because of medical advice — as occurred during the COVID-19 pandemic). These notifications allow us to examine the circumstances of the segregation or separation and to make inquiries if appropriate.

Special reports to Parliament

We are required to make various annual and other periodic reports to Parliament in respect of specific functions. These include an annual report on our work overseeing the PID Act, a report every three years on our work monitoring the operation of the MDT Act, an annual report on our work convening the CDRT, and a report every two years that analyses the deaths of children in NSW.

Under section 31 of the Ombudsman Act, we can also make special reports to Parliament at any time on any matter arising in connection with the discharge of any of the Ombudsman's functions.

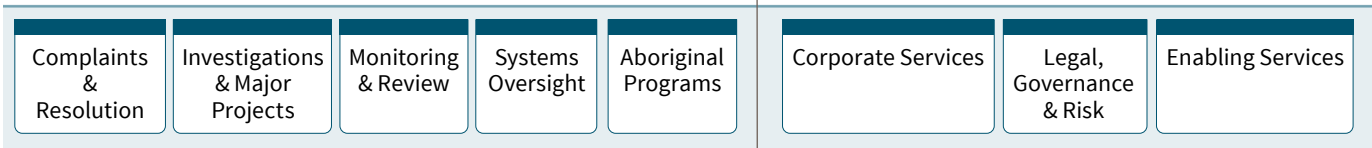


1.2 Organisational structure

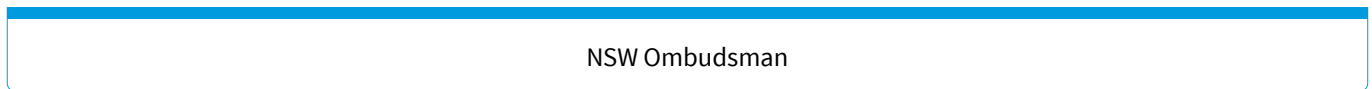
Unit



Branch



Division



Executive team

Paul Miller PSM (he/him)



Ombudsman
BEcon, LLB (Hons), LLM, MBA,
MA (Phil), Solicitor of the Supreme
Court of NSW

Paul was appointed Ombudsman in May 2021, having acted in the role since August 2020.

Paul joined the Ombudsman’s Office in April 2019 as Deputy Ombudsman (Reviews, Investigations and Community Services) and Community and Disability Services Commissioner. Paul has previously served as a Deputy Secretary with the Department of Justice and the Department of Premier and Cabinet.

Monica Wolf (she/her)



Chief Deputy Ombudsman and
Commissioner for Community Services
BA, GradDipEdSt, GradCertPublicPolicy,
GradCertPSM

Monica was appointed Chief Deputy Ombudsman in August 2021.

Prior to this, Monica held a number of executive roles in the organisation including, most recently, Deputy Ombudsman, Projects and Systemic Reviews. In these roles her responsibilities included leading teams responsible for reviews of the deaths of children, policy and systemic projects, and complaints and investigations. Monica worked for a 2-year period with the Royal Commission into Institutional Responses to Child Sexual Abuse, leading teams in both investigations and policy.

Chris Clayton (he/him)



Chief Operating Officer
BComm, GradDipCA, GradCertIA, CA

Chris was appointed Chief Operating Officer in August 2021.

Prior to joining our office, Chris had an extensive career at the Audit Office of NSW, where he held a range of executive positions. Most recently, this included supporting the Auditor-General in overseeing audit quality, provision of audit-related technical support, innovation of audit practices and corporate governance functions.

Jacqueline Fredman (she/her)



Deputy Ombudsman,
Complaints and Resolution
BA, LLB, EMPA, Solicitor of the Supreme Court of NSW

Jacqueline was appointed Deputy Ombudsman, Complaints and Resolution in April 2022. Jacqueline leads the Complaints and Resolution branch, which is responsible for the management and resolution of complaints, through undertaking inquiries, conciliations, referrals and investigations.

Jacqueline had been a senior executive in the Australian Public Service for 9 years, where she was Chief Corporate Officer (and previously Divisional Registrar) at the Administrative Appeals Tribunal. She previously worked as the Manager, Assessments at the NSW Independent Commission Against Corruption. Jacqueline began her career as a solicitor and later practised as a member of the NSW Bar.

Louise Lazzarino (she/her)



Deputy Ombudsman,
Systems Oversight
BA, LLB, LLM, GradDipLP, Solicitor of the Supreme Court of NSW

Louise commenced as an Assistant Ombudsman in July 2022, and was later appointed to the position of Deputy Ombudsman. Louise leads the Systems Oversight branch, which is responsible for the statutory functions relating to the oversight of the public interest disclosures scheme and the mandatory disease testing scheme.

Most recently, she was the Director of Enforcement and Prosecutions at the State Insurance Regulatory Authority. She previously held the position of Manager, Oversight Investigations at the Law Enforcement Conduct Commission, and was an Assistant Director with the Department of Immigration and Border Protection and the Office of the Migration Agents Registration Authority in a variety of investigations and complaint-handling areas.

Sanya Silver (she/her)



Deputy Ombudsman, Investigations and Major Projects
BA (Hons), DipGov (Investigations), GradCertBus

Sanya was first appointed Acting Deputy Ombudsman in October 2021 and was later appointed to the position of Deputy Ombudsman, Investigations and Major Projects in January 2023 to lead the newly established Investigations and Major Projects Branch.

Prior to this role, Sanya had been in several senior complaint-handling and investigation management roles within our office. Most recently she was Investigation Manager of the Investigation Team established to lead complex and systemic investigations across the Ombudsman's public sector and community services jurisdictions.

Leanne Townsend (she/her)



Deputy Ombudsman,
Aboriginal Programs
BA (Soc), MA

Leanne was appointed Deputy Ombudsman, Aboriginal Programs in March 2022. Leanne is a proud Aniwana woman from Uralla in north-western NSW.

Leanne previously held the position of Chief Executive Officer of the National Aboriginal Sporting Chance Academy and prior to that was CEO of the NSW Reconciliation Council. Leanne's experience also includes Indigenous Advisor to Her Excellency Quentin Bryce, and Senior Public Affairs Officer and Executive Officer with the federal Department of Families, Community Services and Indigenous Affairs.

(Leanne is on parental leave, returning February 2024.)

Helen Wodak (she/her)



Deputy Ombudsman,
Monitoring and Review
BA, LLB, Solicitor of the Supreme
Court of NSW

Helen was appointed Deputy Ombudsman, Monitoring and Review in March 2022.

Helen has been working with our office since 2013, when she joined as Principal Investigator in the former Community Services Division. Helen then headed our Public Interest Disclosures team, before being appointed as Acting Deputy Ombudsman, Projects and Systemic Reviews Branch in August 2021. Prior to joining our office, Helen worked with the NSW Department of Attorney General and Justice, and with the Aboriginal Justice Agency in Darwin.

Josh Faulkner (he/him)



Director,
Corporate services
GradCertHRM

Josh joined the NSW Ombudsman in August 2023 to lead the Corporate Services branch.

He has an extensive career within the NSW Government spanning more than 14 years and has led teams in corporate communications, human resources and organisational development. Most recently he worked as a senior executive at the Department of Customer Service where he headed the Employee Experience team.

As Director, Corporate Services, Josh leads the finance, human resources, information communications technology, project and change management teams and is the executive sponsor for a number of technology, transformation and people projects.

Leonie Muldoon (she/her)



Director, Enabling Services
BA, LLB (Hons), LLM, Solicitor of the
Supreme Court of NSW

Leonie joined the NSW Ombudsman in January 2023. A lawyer by profession, Leonie was a partner at a large international law firm in their banking and finance practice before taking up a range of corporate management/leadership roles. She held diplomatic positions in Japan, India and Singapore with responsibility for trade, investment and international education. Most recently she headed the South Australian Department of Trade and Investment.

Megan Smith (she/her)



Legal Counsel
BSc (Psych) (Hons), LLB (Hons), Solicitor of
the Supreme Court of NSW

Megan has been the Ombudsman's Legal Counsel since February 2016.

Before joining the office, she was a solicitor at a large commercial law firm. Megan has also co-authored a textbook on equity. Megan is the principal legal advisor to the Ombudsman. She manages the provision of legal services to the office and litigation involving the Ombudsman. She also oversees the internal governance and risk unit, including policy development and governance.



1.3 Factors affecting us in 2022–23

Strategic Plan 2020–25 — Mid-point review

We are in the third year of our 5-year strategic plan, which commenced in July 2020.

At the mid-point of that 5-year plan we undertook a comprehensive review of the plan, which considered significant internal and external changes that have occurred since the plan was first adopted. These changes include the enactment of legislation that has conferred new and enhanced statutory functions on us, the provision of funding to undertake significant capital projects to enhance cyber security measures and to replace legacy IT and other systems, and enhanced budget funding to address previously inadequate baseline funding for our core statutory functions. These changes are outlined in this section.

In February 2023 we released our revised Strategic Plan – Mid Point Refresh 2020-25¹.

See **chapter 2** for more information about our refreshed strategic plan and our key strategic activities during 2022–23.

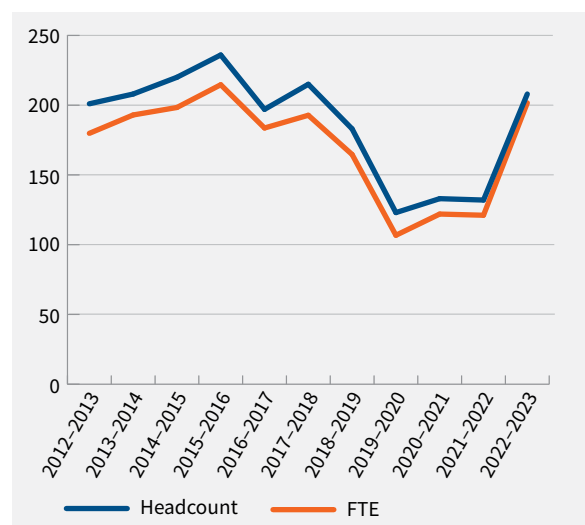
Funding matters

Funding received

2022–23 budget

In 2022–23 our office received a material increase in funding to support some of the existing statutory functions which historically had been critically under-resourced, and to support preparations for new functions, including in particular those conferred by the PID Act and MDT Act. The additional funding has meant our staff numbers have increased to levels more consistent with the period prior to 2018.

Figure 1. Ombudsman staffing (as at year end)



1. See our revised Strategic Plan: www.ombo.nsw.gov.au/_data/assets/pdf_file/0005/138551/NSW-Ombudsman-Strategic-Plan-Mid-Point-Refresh-2020-2025.pdf.

Additional one-off funding was also received to replace and modernise legacy systems and infrastructure.

2023–24 budget

In the recent NSW State Budget for 2023–24 (delayed to September 2023 following the state election in March 2023), the NSW Ombudsman has been allocated a budget of \$53.8 million recurrent expenditure and \$1.8 million capital expenditure.

This includes additional funding approved in response to 4 budget proposals, each of which sought funding for ongoing staffing roles to enable or support the performance of our functions:

- in respect of health administration (4 roles)
- to review the complaint-handling systems of public authorities, under section 25A of the Ombudsman Act (5 roles)
- to provide advice and support to public officials (whistleblowers) who have made, or are considering making, a PID, under section 72 of the PID Act (5 roles)
- to make the Deputy Ombudsman, Systems Oversight an ongoing role.

The first proposal above was made having regard to issues raised in the Legislative Council's Portfolio Committee No 2 report into health outcomes and access to health and hospital services in rural, regional and remote NSW. See **Parliamentary Committee inquiry into rural, regional and remote health services** on page 19.

The other 3 proposals were necessary following the enactment by Parliament of legislation that has conferred new or enhanced statutory functions on the Ombudsman. See **Legislative amendments affecting our functions**.

Budget process for NSW independent integrity agencies

In September 2023, the NSW Government announced new arrangements for the funding of integrity agencies.

Building on recommendations in Public Accountability Committee reports and a report published by the Auditor-General, the government announced a new budget management model that will apply to our office. The government outlined measures including:

- Integrity agencies are permanently removed from the Premier's Department and the Cabinet Office financial management processes.

- Integrity agencies are excluded from efficiency dividends.
- A specialist integrity agency unit is established within NSW Treasury to manage representations of integrity agency funding needs and provide integrity agencies with information on their funding outcomes.
- Integrity agencies have the ability to review Treasury's advice to Cabinet on funding bids and provide their own advice directly to Cabinet.
- Cabinet budget decisions impacting integrity agencies will be reported to the relevant supervising committee of the Parliament.

Legislative and legal matters

Legislative amendments affecting our functions

Ombudsman Legislation Amendment Act 2022

As foreshadowed in our 2021–22 Annual Report, amendments were made to the Ombudsman Act by the *Ombudsman Legislation Amendment Act 2022*, which commenced on 19 August 2022.

Among other things these amendments gave our office:

- the function of reviewing the systems of public authorities for reviewing complaints, supporting our proactive capacity to improve public authorities' own complaint-handling
- the power to refer complaints made to us to the relevant public authority for them to investigate, with our office able to make recommendations to the authority about the referral and require the authority to report to us on the outcome of its investigation.

Casino Legislation Amendment Act 2022

Amendments made during the year by the *Casino Control Amendment Act 2022* amended the scope of our office's jurisdiction, so that we can now receive complaints about, and investigate the conduct of, the Independent Gaming and Liquor Authority and the NSW Independent Casino Commission.

Part 3B of the Ombudsman Act and the Ombudsman Regulation 2016

The *Ombudsman Regulation 2016* was due to be automatically repealed and remade on 1 September 2023. That repeal has now been postponed to 1 September 2024.

As noted in our 2021–22 annual report, we have proposed that clause 8 of the Regulation, which prescribes the Aboriginal programs that are to be monitored by the Ombudsman (under Part 3B of the Ombudsman Act), be amended.

The Aboriginal program currently prescribed by the Regulation is the strategy known as OCHRE. OCHRE was launched in 2013 as ‘the Government’s plan for Aboriginal Affairs’, and the term ‘OCHRE’ became shorthand for the government’s entire Aboriginal Affairs program.

Over time, as new programs and initiatives emerge that are not OCHRE-related (for example, NSW Government initiatives under the auspices of its Closing the Gap Implementation Plan), the current Regulation has ceased to have the ambit that was intended at the time Part 3B was enacted (that is, to extend to all of the government’s significant Aboriginal Affairs programs).

We have proposed to the NSW Government that the prescription of ‘Aboriginal programs’ by reference to OCHRE be reviewed and expanded, so that the Ombudsman can continue to provide comprehensive and independent oversight of Aboriginal Affairs programs in NSW.

Optional Protocol to the Convention against Torture

The Optional Protocol to the Convention Against Torture (OPCAT) was due to commence in Australia by 20 January 2023. It requires all Australian jurisdictions to appoint a National Preventive Mechanism (NPM) to inspect and report on places of detention.

In last year’s Annual Report, we noted that the United Nations Subcommittee on Prevention of Torture had announced that it would visit Australia in the second half of 2022 to inspect places of detention and examine the treatment of people held there (as part of Australia’s OPCAT obligations). The visit, scheduled for October 2022, was suspended — reportedly due to lack of cooperation including from relevant NSW public authorities.²

As at the date of this report, NSW has still not introduced legislation nor announced an NPM to facilitate the commencement of OPCAT.

While the matter is one for Parliament and the government, we have advised the NSW Government that, if appropriately resourced, we are well placed to take on the role of NPM for NSW, at least in respect of those places of detention over which we already have jurisdiction (correctional facilities and youth justice centres) and for other places of detention if desired, such as court cells, secure units in health and disability facilities and certain residential OOHHC residences.

Parliamentary committee inquiries and reports

Ombudsman committee report

In December 2022 the Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission published its report on its 2022 review of the annual and other reports of oversight agencies. No recommendations were directed to the Ombudsman.

The Committee did recommend that, ‘in accordance with the Optional Protocol to the Convention Against Torture, the NSW Government nominate a National Preventative Mechanism for NSW as a matter of priority’.³

Parliamentary Committee inquiry into rural, regional and remote health services

Last year we reported on the Legislative Council’s Portfolio Committee No 2 — Health inquiry into health outcomes and access to health and hospital services in rural, regional and remote NSW. The Committee published its report in May 2023, which recommended, among other things, the establishment of an independent ‘Health Administration Ombudsman’ (recommendation 41).

As the state’s broad-based parliamentary Ombudsman, the role and functions of our office are consistent with the role and functions of the proposed Health Administration Ombudsman. This was noted by the NSW Government in its response to recommendation 41.

2. United Nations Human Rights Office of the High Commissioner, ‘UN Torture Prevention Body Suspends Visit to Australia Citing Lack of Co-operation’ (Press Release, 23 October 2022) <[UN torture prevention body suspends visit to Australia citing lack of co-operation | OHCHR](#)>.

3. NSW Parliament Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission, *2022 Review of the Annual and Other Reports of Oversight Agencies* (Report, December 2022) <[Report 3-57 - 2022 review of the annual and other reports of oversight agencies.PDF \(nsw.gov.au\)](#)>.

NSW Health is the largest health care system in Australia with the largest workforce of all NSW Government departments. In March 2023 we submitted a proposal to the NSW Government for funding to support enhanced scrutiny of health administration. Our office subsequently received funding to recruit a Deputy Ombudsman, Health Administration and to establish a small support unit.

Contribution to independent inquiries

Our office contributes to independent inquiries where we can provide information about our work as relevant to the terms of reference for the inquiry. We made one submission to independent inquiries in 2022–23. In February 2023 we made a submission⁴ to the Independent Review of SafeWork NSW,⁵ which examined SafeWork NSW’s performance of its regulatory functions (including educational functions) under the *Work Health and Safety Act 2011*. Our office provided information about 2 investigations concerning the performance and effectiveness of SafeWork’s compliance and enforcement functions.

Significant judicial decisions and legal proceedings

Significant judicial decisions

There were no significant judicial decisions that particularly affected the Ombudsman or its services during the reporting period.

Special Commission of Inquiry into LGBTIQ hate crimes

The Special Commission of Inquiry into LGBTIQ hate crimes, which commenced on 13 April 2022, was established to inquire into:⁶

Category A: the manner and cause of death in all cases that remain unsolved from the 88 deaths or suspected deaths of men potentially motivated by gay hate bias that were considered by the New South Wales Police Force as part of its Strike Force ‘Parrabell’.

Category B: the manner and cause of death in all unsolved suspected hate crime deaths in NSW that occurred between 1970 and 2010 where:

- the victim was a member of the lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) community, and
- the death was the subject of a previous investigation by the NSW Police Force.

The report of the Inquiry is to be provided to the Governor on 15 December 2023.

Given our previous statutory functions overseeing police complaints, we are providing what assistance we usefully can to the Inquiry, consistent with our legislative obligations. Our police oversight functions ceased in July 2017 with the coming into force of provisions relating to the Law Enforcement Conduct Commission.

We have voluntarily provided certain records requested by the Inquiry related to the exercise of our former police oversight functions. We are confident that the Inquiry will deal sensitively and appropriately with the privacy and confidentiality of persons referred to in those records. We were able to provide records under section 34(1) of the Ombudsman Act, which provides an exception to our non-disclosure obligations when providing information to a special inquiry set up under the *Special Commissions of Inquiry Act 1983*. We took steps to ensure the Inquiry is aware of sensitive personal information that may be contained in our records.

4. See our submission: www.ombo.nsw.gov.au/Find-a-publication/publications/submissions/other/submission-to-the-independent-review-of-safework-nsw.

5. See the Independent Review of SafeWork NSW: www.nsw.gov.au/departments-and-agencies/department-of-customer-service/publications-and-reports/terms-of-reference-independent-review-of-safework-nsw.

6. The Special Commission of Inquiry into LGBTIQ Hate Crimes, ‘Terms of Reference’ (13 April 2022) lgbtiq.specialcommission.nsw.gov.au/about-the-inquiry/terms-of-reference.

2 Strategy

Pursuing fairness for the people of NSW



2.1 Strategic Plan highlights

Mid-Point Refresh of Strategic Plan 2022–25

In February 2023 we published our *Strategic Plan 2020–25 — Mid Point Refresh*.⁷ The revised strategic plan identifies the 4 outcomes we need to achieve to help realise our vision that: *Everyone receives the right services and fair treatment from those we oversight.*

Our vision is aspirational, and while we can contribute towards it, we have limited influence over whether it is realised. For that reason, we focus our efforts on the set of 4 Ombudsman outcomes that support the realisation of our vision, and that are more closely within our control.

Outcome 1 is about ensuring that the people of NSW are satisfied with our customer service.

To achieve this outcome, we need to: listen to their complaints or questions; provide information and guidance; provide an impartial assessment of an agency's conduct; help where possible to conciliate and resolve complaints; and, where necessary, investigate matters of serious or systemic concern.

Outcome 2 aims to support democratic principles and the rule of law, and to ensure citizens are protected from abuse of power and unfair treatment, by holding public authorities and community service providers to account when they engage in wrong conduct.

Outcome 3 is about fostering enduring reforms that prevent future failings and improve public administration and service delivery. Some of the ways in which such reforms achieve these aims include helping government and service providers to learn from complaints and reviews; promoting public sector whistleblowing; providing advice,

suggestions and recommendations that are evidence-based, realistic and effective; and providing education and training to government agencies and service providers to encourage good administrative practice and build capability.

Outcome 4 is about providing a trusted source of independent advice to Parliament. Although we are independent of all stakeholders, we report directly to the Parliament of New South Wales, in its capacity as the representative body of the people.

See **chapter 3** for information on our work towards achieving each of those 4 outcomes.

Our *Strategic Plan 2020–25 — Mid Point Refresh* articulates:

- the strategic initiatives we will pursue over the remaining period of the plan, each of which is linked to 1 or more of our 4 outcomes.⁸ An annual plan is developed each year for the activities we will carry out in respect of those strategic initiatives. Implementation of the annual plan is overseen by the executive team with tracking of progress completed on a quarterly basis. Some of our highlights from this year are on pages 24–25 in the **Strategic Action Plan highlights**.
- a number of distinctly 'transformative' projects that are to be delivered for the remaining years of the plan. These have been consolidated into a comprehensive *Transformation Program*: refer to **section 2.3** for more information about that program and our progress.
- progress towards achieving our 4 strategic outcomes to be measured by reference to a series of key performance indicators (KPI) ascribed to each outcome. Performance against KPIs is set out in **section 3.4**.

7. See Strategic Plan 2020–25 — Mid Point Refresh: www.ombo.nsw.gov.au/__data/assets/pdf_file/0005/138551/NSW-Ombudsman-Strategic-Plan-Mid-Point-Refresh-2020-2025.pdf.

8. Refer to Table 2: Strategic initiatives in section 7 of Strategic Plan 2020–25 — Mid Point Refresh. www.ombo.nsw.gov.au/__data/assets/pdf_file/0005/138551/NSW-Ombudsman-Strategic-Plan-Mid-Point-Refresh-2020-2025.pdf.

2.2 Strategic Plan 2020–25 Mid Point Refresh on a page

Ombudsman vision and outcomes

VISION

Everyone receives the right services and fair treatment from those we oversight

POPULATION AND SYSTEM LEVEL OUTCOMES

Individuals get services and decisions from public authorities and community service providers that are lawful, reasonable and fair

Individuals affected by services or decisions of public authorities and community service providers that are not lawful, reasonable or fair have an effective remedy

Public authorities and communities service providers avoid unlawful, unreasonable or unfair services or decisions

Public authorities and community service providers are responsive to individuals who complain about a service or decision

Public authorities and community service providers are held to account for serious administrative wrongs

OMBUDSMAN LEVEL OUTCOMES

1

Complaints to us are resolved effectively and individuals are satisfied with our service

- A. Individuals and stakeholders* can easily access us
- B. Complainants perceive that their questions and complaints are resolved effectively
- C. We provide high standards of customer service
- D. Complainants, public authorities and community service providers perceive our complaint-handling processes as impartial and fair

2

Public authorities and community service providers are held to account for serious wrong conduct

- A. We identify serious and/or systemic administrative wrongs
- B. We pursue the most important investigations, inquiries and reviews
- C. Our findings are impartial, fair and rigorous

3

Improvements in public administration and community services delivery occur as a result of our work

- A. Public authorities and community service providers perceive our recommendations as impartial, fair and robust
- B. Our recommendations are well-targeted and lead to positive change
- C. Public authorities and community service providers are provided the information and support they need to avoid administrative wrongs

4

Parliament gets support from us in the exercise of its functions

- A. Parliament is satisfied that we are performing our functions
- B. We provide robust evidence and advice to Parliament on issues of significance that contribute to Parliamentary/public debate

OMBUDSMAN INFLUENCE

HIGHER

* This outcome uses 'stakeholders' in a narrow sense - it refers to organisations through which individuals reach us or who might act for individuals (eg community legal centres).

Strategic action plan highlights



Services and impact

Established a team to take on our function to review the welfare, progress and circumstances of children in out-of-home care and how this can be improved. In-care reviews are to commence in late 2023

Commenced the development of guidance, resources and training materials for NSW public authorities and officials to prepare for the new *Public Interest Disclosures Act 2022*

Developed a scalable approach to investigations from those focussed on a specific allegation of maladministration to larger-scale systemic inquiries

Commenced use of e-discovery software for more efficient and rigorous analysis of documentation obtained in investigations

Introduced new tools and training to improve the quality of complaint data capture

Commenced a website update to improve accessibility and user experience

Rolled out a suite of reporting dashboards to improve how we identify trends, themes and systemic issues relating to the deaths of children in NSW

Identified pain points and mapped an improved future state complainant journey for implementation in an enhanced case management system



Engagement and relationships

Refreshed our Community Engagement Strategy⁹ to focus our work on supporting complainants from vulnerable communities

Participated in a range of national and international engagement and forums with other Australian and New Zealand Parliamentary Ombudsman offices to share our unique experiences

Developed customer-focused brand and marketing and communications strategies to raise awareness of who we are and how to access our services

Continued our guidance and improvement work on public sector use of automated decision-making

Held a second Integrity Agencies Symposium providing development opportunities for junior staff to gain experience presenting and to learn more about the role and work of other integrity agencies

Presented to and produced new resources for members of Parliament and staff from electorate offices about our office and how we can assist them with handling complaints

9. See Community Engagement Strategy: www.ombo.nsw.gov.au/_data/assets/pdf_file/0008/136997/NSWO_Our-Community-Engagement-Strategy.pdf.



Leadership and governance

Provided professional change management training for our managers who are responsible for strategic initiatives and organisational performance

Developed new office policies to guide staff on using social media

Commenced implementing a new RAPIDS (Recommend, Agree, Perform, Input, Decide and See) decision-making framework. The framework involves identifying the particular roles played by individuals for significant decisions in any decision-making process – so that our people are confident and empowered to make high quality and consistent decisions



People and culture

Developed an Employee Value Proposition to help us tell the story of our work to prospective candidates and to showcase the career opportunities available to attract a diverse range of high-calibre people

Launched our Flexible Ways of Working (FWoW) Model, which guides the where, when and how our work can be done, in a way that maintains or improves service delivery for the people of NSW

Updated our Flexible Working Hours Agreement, which supplements our employee Award conditions, to leverage the benefits from our FWoW Model

Developed and implemented an internal communications plan with a new Intranet and cross-office staff newsletter to better support knowledge sharing and a unified and collaborative culture

Started our journey to develop a Reconciliation Action Plan (RAP), which will provide a framework for engagement, learning and growth for our office to advance reconciliation

Rolled out internal Aboriginal Cultural Inclusion training to promote greater cultural awareness



Systems and processes

Developed and commenced a regular survey program to monitor and improve our performance through feedback on community awareness and complainant and stakeholder experience, outcomes and satisfaction

Developed a new suite of key performance indicators to track and measure our organisational impact (see **section 3.4**)

Launched an internal Lunch & Learn webinar series in November 2022, which covered a range of topics designed to support staff's technical knowledge and complaint resolution skills

Set up a project team and embedded governance arrangements to manage the new *Transformation Program* delivery

Commenced delivery of the 13 *Transformation Program* projects (see **section 2.3** for program details and status update)

2.3 Transformation Program

Our refreshed *Strategic Plan 2020–25* includes our *Transformation Program*. Each of the 13 projects in the *Transformation Program* is linked to our strategic outcomes and is expected to result in a significant ‘step change’ in the way we do business.

Our *Transformation Program* includes projects designed to fix antiquated legacy systems that no longer meet our needs and present elevated cyber risks, remedy long-term underinvestment in our baseline resourcing and address the challenges of growing the number of staff (such

as governance structures, recruitment, culture, etc), and develop operating models for new or enhanced functions recently conferred on us by legislation.

Given the scale and importance, as well as the risk, of these *Transformation Program* projects, they are managed under a rigorous and co-ordinated project governance structure consisting of the Ombudsman, Chief Deputy Ombudsman and Chief Operating Officer. A centralised project *Transformation Program* Lead officer supports the delivery of the overall program.

Transformation program overview

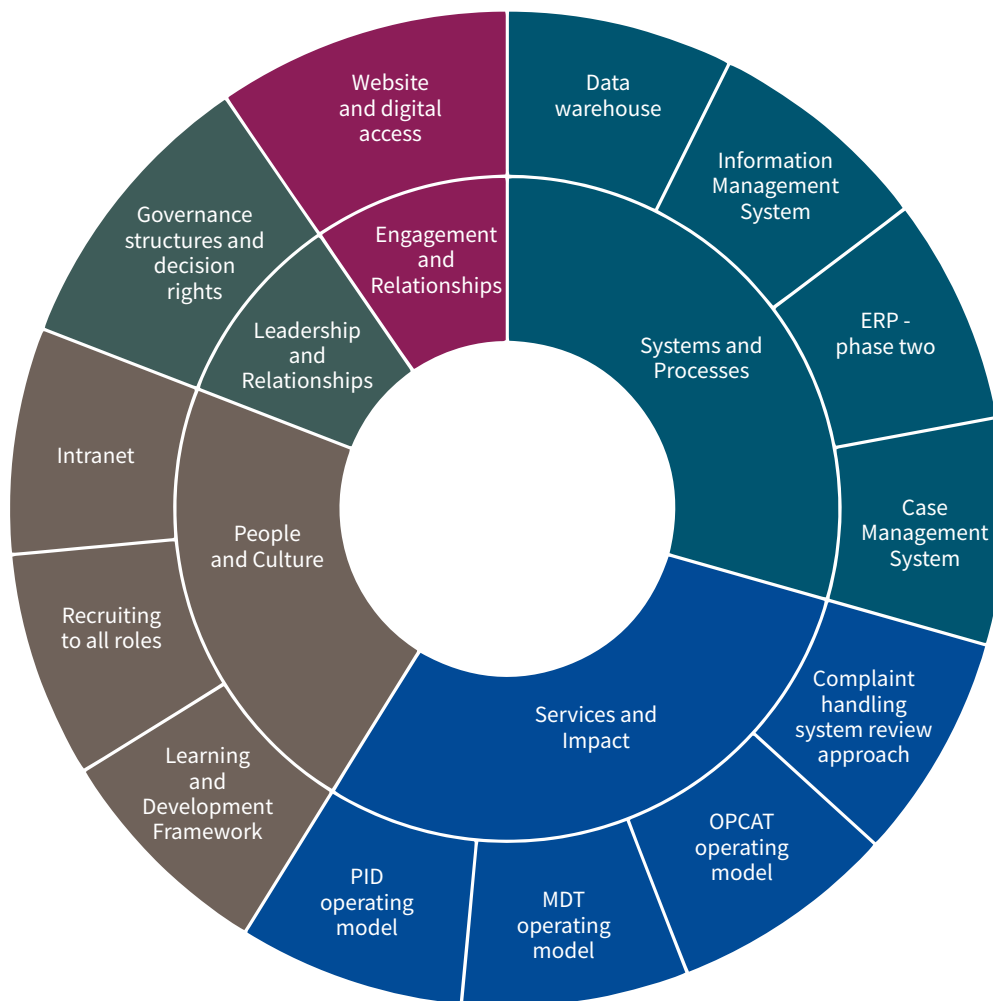


Table 1. Highlights of progress on our transformation journey to date

Ref	Project	Description	Stream	Status	Key Actions/Deliverables
TP1	Intranet	Replace our current intranet with a modern internal communication and internal knowledge-sharing platform.	People and Culture Systems and Processes	Completed	We replaced our current intranet which has enabled better internal communication and knowledge sharing.
TP2	Website and digital access	Refresh our current website and digital access channels for our customers – with modern technology, including virtual assistants and customer access portals.	Engagement and Relationship	In progress	The refresh of our current website and digital access is underway. Work has commenced on developing the structure of the new website, with implementation scheduled for 2024.
TP3	Case Management System	Develop a new case management system to support efficient and effective end-to-end decision-making.	Systems and Processes	In progress	A software solution has been selected as the basis for our new case management system together with an external firm to support its development and implementation. Work on defining the detailed requirements of the new system is well underway.
TP4	Enterprise Resource Planning (ERP) system – phase two	Implement the people-related functions of our ERP system – to replace multiple legacy systems.	Systems and Processes	Completed	The people-related functions of our ERP system have been implemented.
TP5	Information Management System	Refresh our internal information management systems to facilitate more efficient workflows.	System and Processes	In progress	Planning for the refresh of our information management systems is underway.
TP6	Recruiting to all roles	Resource all parts of the Ombudsman’s Office with sufficient capable staff.	People and Culture	Ongoing	We recruited an additional 101 people during 2022–23. Through our recruitment, we were able to enhance the level of diversity in our workforce. We will continue our recruitment efforts with the view to strengthen our diversity and inclusivity.
TP7	PID Operating Model	Implement a refreshed operating model for our expanded public interest disclosure (PID) functions under the <i>Public Interest Disclosure Act 2022 (PID Act)</i> , due to commence in October 2023.	Services and Impact	In progress	We are implementing a refreshed operating model for our expanded PID Act functions, including the roll-out of training and guidance materials for public authorities across NSW.

Ref	Project	Description	Stream	Status	Key Actions/Deliverables
TP8	MDT Operating Model	Implement an operating model for our new mandatory disease testing (MDT) functions.	Services and Impact	Completed	Our MDT operating model has been developed and implemented.
TP9	OPCAT Operating Model	Develop an operating model for the anticipated Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) function.	Services and Impact	Watching brief	We have undertaken some preliminary activities that would allow us to mobilise quickly if the NSW Ombudsman is given a role under OPCAT by the NSW Government.
TP10	Complaint handling system review approach	Implement an approach to performing complaint-handling systems reviews of NSW public authorities.	Services and Impact	Not yet started	The review we are currently conducting of DCJ's complaint-handling systems with respect to the Aboriginal child protection function will inform the development of our approach to future reviews.
TP11	Data warehouse	Expand our data warehouse capabilities to enable the Ombudsman's Office to extract greater insights.	Systems and Processes	Not yet started	Work on expanding our data warehouse capabilities will commence in 2023–24 once further progress is made on other <i>Transformation Program</i> projects.
TP12	Learning and Development framework	Implement a new learning and development framework, that includes the use of case conferencing.	People and Culture	In progress	Implementation of a new learning and development framework is underway. This includes building a comprehensive capability and skills framework that will feed into a detailed learning needs assessment.
TP13	Governance structure and decision rights	Streamline governance structures and decision rights across the Ombudsman's Office.	Leadership and Governance	In progress	Streamlining of governance structures and decision rights across the Ombudsman's Office are underway.

3 Operations and performance



3.1 Summary review of operations

Operational highlights 2022–23

Complaints

All contacts



Received **27,624** contacts to our office

11% increase in the number of contacts received

Actionable complaints



Received **12,997** actionable complaints

5% increase in the number of actionable complaints received

27% increase in actionable complaints about custodial services

Dealing with complaints



Finalised **12,814** actionable complaints

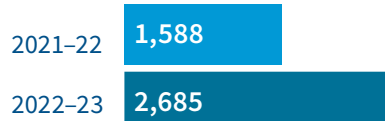


62% finalised within 1 week



80% finalised within 30 days

Took further investigatory action on 2,685 complaints after initial assessment



69% increase

Including preliminary inquiries, suggestions and comments, conciliation and investigations

Warm referrals



1,301 (10%) actionable complaints were directly referred to the agency complained about, with the complainant's consent

Preliminary inquiries about custodial services increased by



148%



Investigations



Finalised **6** investigations



Commenced **10** new investigations



Monitored implementation of our recommendations from **9** previous investigations

Special reports and submissions



Tabled **11** reports to Parliament, including **7** special reports

Made **1** submission to an independent inquiry

Community engagement and training

Supporting public authorities and service providers through training

Delivered 111
complaint-handling, administrative law,
and investigation skills workshops to
1,395 participants



Provided 25
public interest disclosures
training workshops to a total of
995 participants

Community events

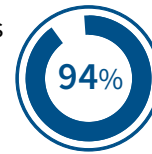
Participated in **12**
community events to
raise awareness of our
services, particularly with
vulnerable complainants



Feedback on training workshops:



of organisations
were satisfied
with our
training



of individuals
rated our
training overall
as good or
excellent

Complaint-handling systems

Commenced review of Department of Communities and Justice (DCJ) system for handling complaints from, or concerning, Aboriginal children in the child protection and out-of-home care (OOHC) system



Monitoring and assessment of Aboriginal programs

50

Aboriginal engagement
meetings held

Key outcomes contributing to the NSW Government establishment of:

- a Whole of Government Steering Committee to drive place-based responses to issues in the communities of Walgett, Moree and Wilcannia
- a cross border working group with counterparts in Queensland to collaborate on issues affecting the school community of Boggabilla and Toomelah

Child death reviews

Delivered a research report on
**Effects of perinatal conditions
and local area socioeconomic
status on early childhood
mortality in New South Wales**



Staff recruitment

We onboarded
**101 new
employees**

3.2 Customer engagement

Feedback about us — community, complainant and stakeholder satisfaction surveys

We introduced a survey program to collect feedback from the NSW community, complainants, and the NSW public authorities and community service providers that we oversee. The surveys measured awareness and perceptions of the NSW Ombudsman's Office, and is designed to help us improve complainant and stakeholder interactions and the quality of our service experience.

The survey program included qualitative and quantitative research across 2,000 NSW residents, 5,719 complainants and 442 stakeholder organisations. The survey sample included:

- broad community representation (community survey)
- complainants (other than those in custody or detention) whose complaints were finalised between October 2022 and June 2023 (complainant satisfaction surveys)
- key agency, council and community service provider stakeholders engaged with during 2022–23 (stakeholder satisfaction survey).

The online survey information was complemented by deep-dive interviews conducted with 20 survey respondents. The survey program provided valuable feedback for:

- future awareness-raising communication initiatives
- complaint-handling system configuration including automated updates and self-servicing capability.

Accessing our services

We seek to be accessible to all members of the public and can be contacted in several ways, including by phone and through an online complaint form. People can also visit our office in person or speak with our staff during community outreach events or correctional and youth justice centre visits. As COVID-19 restrictions eased, we were able to increase our community and correctional visits in 2022–23.

Some community members may be less likely to access our services without assistance — the very factors that may contribute to a person needing the help of the Ombudsman may also limit their ability or willingness to approach and engage with us. To reach those who may not have knowledge of our office or our services or may otherwise face impediments to accessing our services, we undertake a range of community outreach activities.

We have a small team responsible for receiving complaints about correctional and youth justice centres and, to improve accessibility to our complaint-handling services, the team runs a visits program.








Contacts to our office

We categorise contacts received by our office into 6 categories (see **Appendices A1–A6** for more detail):

- (1) **Actionable complaints** — complaints about a public authority or community service provider that we are authorised to deal with under the *Ombudsman Act 1974* (**Ombudsman Act**) or the *Community Services (Complaints, Reviews and Monitoring) Act 1993*
- (2) **Excluded complaints** — complaints about a public authority or community service provider that we are not authorised to deal with because the complaint is about 'excluded conduct' as set out in Schedule 1 of the Ombudsman Act
- (3) **Requests for information** — where someone is not complaining but asking for our help or advice

- (4) **Notifications** — where agencies report things to us because they are legally required to do so (for example, when a young person is segregated alone in a youth justice centre for 24 hours or more)
- (5) **Misdirected contacts** — where someone contacts us about a person or body that is not a public authority or a community service provider, and over which we have no jurisdiction (such as a banking provider or an Australian Government department)
- (6) **‘Feedback Assist’** — where our office assists with identifying the appropriate agency to manage feedback (complaints, compliments or suggestions) provided by the public via a NSW Government ‘Feedback Assist’¹⁰ widget or another agency’s website.

Figure 2. How we received contacts¹¹

	Phone	14,670
	Online	6,316
	Email	3,498
	Notifications	2,238
	In person	737
	Post	143
	Initiated by us	22

Contacts received in 2022–23

In 2022–23 we received 27,624 contacts. This represented an 11% increase in the number of contacts received from the previous year (24,899). The number of actionable complaints increased by 5% and the number of misdirected contacts increased by 35%. The number of excluded complaints, which had increased for the previous year by 40%, dropped by 12% for 2022–23.

A further breakdown of data relating to complaints and notifications is in **Appendices A1–A6**.

Custodial services outreach

During 2023, we recommenced our visits to youth justice centres. We also actioned ways to better engage with young people in detention and provide them with information about how we can help resolve complaints. During the year we gave presentations to young people within classrooms and units, and distributed NSW Ombudsman branded footballs, playing cards and colouring-in pages with our contact details to remind young people who we are and how they can access our services.



NSW Ombudsman Aboriginal brand collateral for custodial services

In 2021–22, the number of contacts to our office stabilised, and in 2022–23 we experienced an increase in contacts. The leading contributor to this was an increase in misdirected contacts, and an increase in requests for information. Although we cannot handle misdirected contacts, helping members of the public navigate to the right place for their complaint is an important service we provide. However, we are looking at more efficient ways to help the public in this regard, including by changing our website and online complaint form to provide better and clearer pathways to the correct ombudsman or other complaint-handling service (if that is not us).

10. See Feedback assist: www.digital.nsw.gov.au/delivery/digital-service-toolkit/solutions/feedback-assist.

11. The reference to ‘contacts received’ in this section includes matters where we opened a complaint file using own motion powers. ‘In person’ includes through community visits, youth justice visits, prison visits or personal visits to our office.

Figure 3. Contacts received

Actionable complaint	12,997
Misdirected contact	6,248
Request for information	4,732
Notification	2,235
Excluded complaint	1,259
Feedback Assist	153

Changes in contacts over time

In last year’s annual report, we observed that the total contacts to our office had been declining over the last 5 years. This was due primarily to the transfer of previous functions (see **Figure 4**) and the impacts of COVID-19, including the sizable drop in the adult inmate population.

Figure 4. Contacts received over 5 years

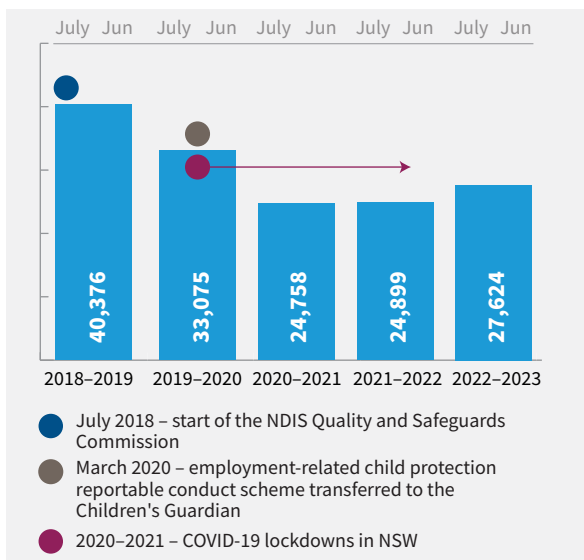
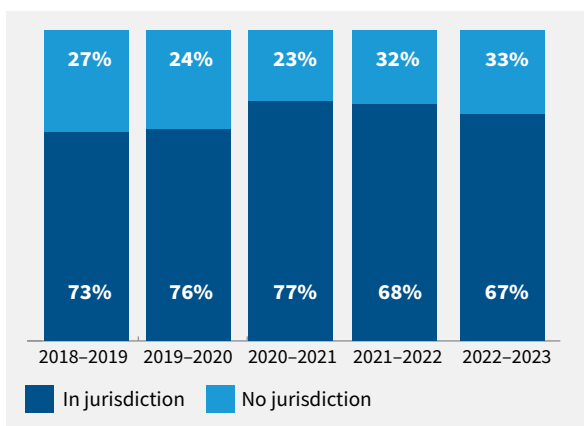


Figure 5. Contacts received in jurisdiction over 5 years



The proportion of contacts we received that were about matters within our jurisdiction decreased slightly in 2022-23 compared to the previous year.

Community engagement

Community engagement strategy

We are committed to serving all people and communities in NSW. In 2022-23, we refreshed our Community Engagement Strategy¹² to specifically focus our work on vulnerable communities, including:

- Aboriginal people and communities
- people from culturally and linguistically diverse communities (including newly arrived migrants and refugees)
- people in (or recently released from) custody
- children and young people
- people with disability.

The refreshed strategy focuses on actions to ensure vulnerable groups in the community are aware of our services and know how to make complaints to us.

We continued to track and monitor new and emerging issues for vulnerable members in the community and use this information to plan targeted outreach and identify systemic issues.

WorldPride 2023 Human Rights Conference

We held an exhibition stall over 3 days at the Sydney WorldPride 2023 Human Rights Conference, which was the largest lesbian, gay, bisexual, transgender, intersex, queer, asexual (LGBTQIA+) human rights conference ever held in the southern hemisphere. The stall raised awareness of our services and the support we provide for the LGBTQIA+ community. We provided educational resources (including factsheets and an interactive video series) to explain the different types of unfair treatment LGBTQIA+ people may suffer that could be reportable as a complaint to our office.

12. See Community Engagement Strategy: https://www.ombo.nsw.gov.au/__data/assets/pdf_file/0008/136997/NSWO_Our-Community-Engagement-Strategy.pdf

Community engagement highlights

Some of the key events where we held information stalls to raise public awareness of our services included:

- Advance Diversity Services hosted Migrant Information Day
- Recharge and Energise Community Worker's Forum for Anti-Poverty Week
- TAFE NSW Bankstown Campus' Expo-on-the-Green
- Royal Easter Show's Seniors' Day
- YABUN festival
- 2023 Sydney WorldPride Human Rights Conference.

We also delivered broad outreach activities in collaboration with other government agencies and partnered with the NSW Advocate for Children and Young People to select representatives for the 2023–24 Youth Advisory Council.

We refreshed our Multicultural Action Plan,¹³ outlining a range of activities to enhance our staff diversity, develop a more inclusive workplace and improve the way we work with people from culturally diverse backgrounds. We developed a range of targeted training workshops to inform vulnerable members of the community about our services and their right to make a complaint.

Given the vulnerability of people in custody and their unique dependency on the proper performance of functions by public officials, we maintained a regular program of visits to correctional centres and youth justice centres throughout the year. During visits we receive complaints and ensure that people in custody are aware of the assistance we can provide.



3.3 Reporting on our strategic outcomes

As outlined in **section 2.1**, to realise our vision we have focused on achieving 4 strategic outcomes.

Our 4 outcomes



Outcome 1: Complaints to us are resolved effectively and individuals are satisfied with our service



Outcome 2: Public authorities and community service providers are held to account for serious failures, or unreasonable or wrong conduct



Outcome 3: Improvements in public administration and community service delivery occur as a result of our work



Outcome 4: Parliament gets support from us in the exercise of its functions.

13. See Multicultural Action Plan: www.ombo.nsw.gov.au/_data/assets/pdf_file/0009/136998/Multicultural_Plan_2022-24.pdf.

Activities contribute to delivery of multiple outcomes

Each of our 4 strategic outcomes are interrelated, and activities contribute to the achievement of multiple outcomes. For example, effective resolution of a complaint (Outcome 1) may result in an agency being held to account by findings of wrong conduct (Outcome 2). The resulting public report and recommendations can drive broader improvements in public administration (Outcome 3) at the same time as providing evidence for Parliament to scrutinise the government and pursue legislative reform (Outcome 4).

In this section we outline our work during 2022-23 and indicate graphically the extent to which our activities are contributing to each of the strategic outcomes.



Handling actionable complaints



How we finalised actionable complaints in 2022-23

Initial assessment undertaken of 100% (12,814) of the actionable complaints finalised in 2022-23

We assess all the complaints we receive.

Many complaints are finalised at this stage, and without us making inquiries or otherwise engaging directly with the agency concerned. Complaints at this stage may be finalised by providing information and advice to the complainant — such as explaining the agency’s decision or actions, or by referring the complainant to the relevant agency to raise their complaint. Depending on the circumstances, if a complainant has not already contacted the agency directly before contacting us, we may advise them to do this, to provide the agency with an opportunity to address the concerns, and then invite the complainant to come back to us if they are not satisfied with the agency’s response.

Warm referral

We also have arrangements with larger agencies that allow us to ‘warm refer’ complaints directly to them, with the complainant’s consent. We do this where we assess the agency has not had a reasonable opportunity to address the complaint. This is helpful as it means the complainant does not have to start the process of complaint again by contacting the agency directly, and the agency is aware that the issues have already been raised with us. Of our actionable complaints, 10% (1,301) were finalised by way of warm referral.

Table 2. How we finalised complaints

2,685	Further action taken 21%
10,129	Finalised following assessment and without further investigatory action (this includes referral to the relevant agency) 79%

Preliminary inquiries — 21% (2,667) actionable complaints finalised this way in 2022-23

After receiving a complaint, we may make preliminary inquiries under section 13AA of the Ombudsman Act. This means we engage with agencies to seek answers to questions raised by a complaint or documents to help us understand and address the issues raised, and to consider if there may have been serious maladministration that may warrant formal investigation.

Most complaints that result in preliminary inquiries are finalised following such inquiries, and without proceeding to a formal investigation of maladministration. Sometimes this is because the information we receive suggests no further action is warranted and we are in a better position to explain to the complainant why this is the case. In other cases, our inquiries prompt agencies to take corrective action to resolve the complaint (for example, by reviewing a decision, providing an apology or undertaking some other corrective action) or to provide the complainant with reasons or further information that addresses their concerns.

Comments or suggestions — 35 made in respect of 12 actionable complaints finalised in 2022–23

Section 31AC of the Ombudsman Act allows us to provide information or make comments to an agency in respect of a complaint. In the process of resolving a complaint, we may formally make such comments or suggestions to an agency. Comments are generally aimed at assisting an agency to improve its service delivery or its own complaint-handling. Of the 35 comments or suggestions made:

- 15 were accepted and 14 were implemented by agencies the subject of the complaint (1 was in the process of being implemented at the time of reporting)
- 1 suggestion had already been proactively implemented by the agency
- 12 suggestions were not yet due for response at the time of reporting
- 2 suggestions were not accepted or implemented
- we are awaiting responses to 5 suggestions.

Conciliation of complaints — 1 conciliation conducted in 2022–23

Section 13A of the Ombudsman Act enables us to seek to deal with a complaint by formal conciliation. Conciliation is held on a voluntary basis and the parties may withdraw at any time. Conciliation may be conducted with the assistance of a professional conciliator or mediator. Where this happens, the conciliation process is internally ‘ringfenced’ from any other action we may take on the complaint, to ensure that the conciliation discussions can take place in a frank, confidential and ‘without prejudice’ environment.

Conciliation can be a highly effective means of resolving complaints, particularly where the complainant and the agency need to maintain an ongoing relationship (such as a school or university student, a tenant in public housing or a person in care).

As we build capacity among our staff and build greater awareness of this function for both complainants and public authorities, we expect to increase the number of conciliations we undertake from 2023–24 onwards.

Investigations — 6 investigations finalised in 2022–23

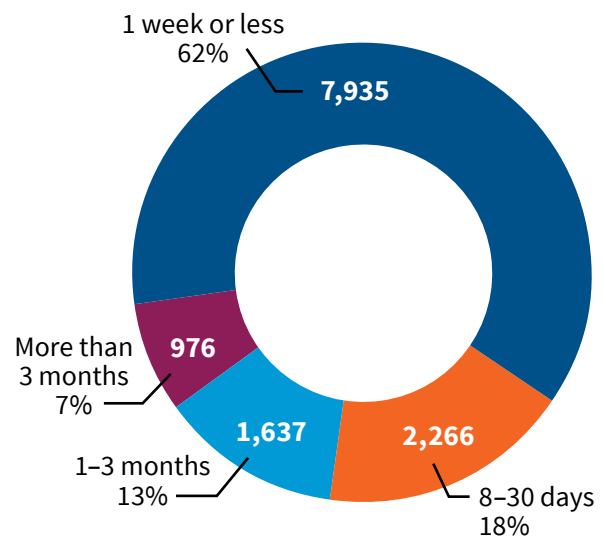
The Ombudsman may make the conduct of a public authority the subject of an investigation where it appears that any conduct of that public authority may be contrary to law, unreasonable or otherwise wrong.

An investigation may result in findings made in a final report, or the investigation may be discontinued without findings.

Of the 6 finalised investigations, 4 resulted in a report to the agency, and 2 were discontinued without making findings.

More information about the investigations is included in this chapter under **investigation reports**.

Figure 6. Time taken to finalise actionable complaints



Case studies: ways we resolve complaints



Assisted school travel

A mother complained to us about delays by the Department of Education in arranging for school travel for her son via its Assisted School Travel Program. Her son lived with disability and the family resided in regional NSW. Without the assistance, the mother had to travel over 60 km each day to and from school, which also meant she was unable to commit to work.

We contacted the Department, which advised that an Assisted Travel Support Officer (ATSO) was being recruited, and they undertook to contact the mother to let her know what was happening.

We continued to be in contact with the Department until we were satisfied that appropriate ATSO and travel arrangements had been made, so that the young person's needs could be addressed.



Bank account garnisheed due to a fine

A Victorian man travelling in NSW was pulled over by police and fined for speeding 10 km over the limit. He was told the fine would arrive in the mail. Sometime later, he noticed a large sum of money had been garnisheed from his account. He found out that Revenue NSW had garnisheed both the fine amount plus an overdue payment fee. He contacted Revenue NSW and learned they had previously sent the fine to the wrong address. He told us that while he had no issue paying the speeding fine, he had requested reimbursement of the overdue penalty, but Revenue NSW declined.

We made inquiries with Revenue NSW regarding what attempts had been made to contact the man prior to the garnishment and why Revenue NSW had not waived the overdue payment fee. Following our inquiries, Revenue NSW agreed to waive the overdue payment fee and refund that payment.



Resolving issues through conciliation

We have the ability to offer conciliation services, with a focus on matters where a complaint arises in circumstances where there is an ongoing relationship between the complainant and the relevant agency.

In one matter there had been a longstanding dispute between a foster carer and an OOH agency about carer allowance levels, gap costs for medical treatment, compensation for property damage and management of documents.

The parties had been unable to resolve their differences until the carer came to us and we proposed conciliation. The process was successful and all issues in dispute were resolved. The carer and the agency representatives were satisfied with the result, thanking our staff for their professionalism and helping steer the relationship into a more positive place.



Digital licence in Corrective Services

During our visits program to correctional facilities, our people observed that NSW digital driver licences were not being accepted as a means of identification for people visiting an inmate in a custodial facility. Instead, those visiting were required to provide a physical driver licence or other proof of identity in order to gain entry. We made inquiries of our own motion as to the basis for this restriction. The agency advised the restriction had been put in place due to concerns about mobile phone jamming technology and poor reception in some places causing difficulties in accessing a digital driver licence.

Following our inquiries, the agency advised that it had reviewed its policy and would be implementing the ability for visitors to use their digital driver licence as an identification means.



Merits of charges and reclassifications of inmates in prisons

Another aspect of our role in improving public administration is the making of comments under section 31AC of the Ombudsman Act to a public authority that is the subject of a complaint.

In one example, 3 inmates complained to us that they had received an internal disciplinary charge, and their security classification increased, due to allegations that they had assaulted another inmate. They complained they were not provided with the opportunity to present their side of the story. We made inquiries as we had concerns about the fairness of the processes when the inmates were charged and reclassified, and the fairness of the penalties imposed.

By way of comments under section 31AC, we suggested that the merit of the charges and reclassifications and relevant policies and procedures be reviewed, and remedial action be taken if shortcomings were identified. Our suggestions were accepted. The correctional centre charges were reviewed, and as a result then expunged, with the inmates' original classifications restored. The inmates also received an apology from centre staff.



Complaint-handling by a not-for-profit organisation

A man told us he tried to submit a complaint about how staff from a non-government organisation (NGO) had treated him. The NGO was a public authority within our jurisdiction because of the community services it provided using public funds.

The NGO did not accept he had made a complaint with them, because he had not submitted it using their Compliments and Complaints process. This was despite their own Complaints page on their website stating that a complaint could be communicated by any means. He asked for copies of policies relating to staff conduct and complaint-handling, which was refused, on the basis they were for internal use only.

After making inquiries with the NGO, we suggested improvements, based on best practice: that the NGO make available, via its website, operational policies, and secondly that the Complaints page on its website provide an accessible range of ways to submit a complaint including by phone, email and post, as well as the online form and where to access a hard copy form. The NGO accepted our suggestions and implemented the changes.

Reviews of our decisions

In 2022–23 we accepted 35 requests seeking a review of a decision we made about a complaint. Reviews are accepted and conducted in accordance with our *Request for a Review of a Decision* policy. Most review requests we received concern our decision to close a complaint without commencing a formal investigation under the Ombudsman Act.

Of the 35 requests for a review:

- We affirmed our decision not to commence an investigation in 20 of those cases.
- We reopened 3 complaints to make further inquiries with the agency. Following those inquiries, in each case we affirmed the original decision not to commence an investigation (after providing further reasons to the complainant).
- In 2 matters we affirmed our decision not to investigate, but on review we also made a comment to the relevant agency under section 31AC of the Ombudsman Act to suggest improvements for future practice.
- 1 review application was withdrawn.
- 9 review matters were still open as of 1 July 2023.

Our aim is to finalise reviews within 3 months of receipt. In 2022–23, we finalised over 69% of reviews within 3 months of receipt, which is an improvement on the 54% finalised within 3 months in 2021–22.

Investigation findings and recommendations

Outcome 1 Outcome 2 Outcome 3 Outcome 4



Under section 17 of the Ombudsman Act, our investigations must be conducted in the absence of the public.

When the investigation is completed, if findings of wrong conduct are made, we provide a final report on the investigation to the relevant agency and its responsible minister under section 26 of the Ombudsman Act.

The report may include recommendations for corrective action in respect of the particular wrong conduct, as well as for systemic and administrative improvements.

In 2022–23, we made findings of wrong conduct in relation to 4 investigations. Two investigations were discontinued without findings. We commenced 10 new investigations during the year.

Investigations summary report

While not all investigations result in a special report being tabled in Parliament, our current practice is to publish and present to Parliament a special report that summarises the outcomes of investigations completed in the previous 12 months.

A summary report of the investigations completed from 1 October 2022 to 30 September 2023 will be tabled separately in Parliament on 30 October 2023.

Public reports



Special reports to Parliament

Under section 31 of the Ombudsman Act, the Ombudsman can make special reports to Parliament on any matter arising in connection with the discharge of the Ombudsman’s functions.

We may make a special report following a particular investigation and tend to do so especially where these may have broader implications beyond the particular complaint and the agency or service provider involved.

We may also produce special reports on any other matter arising out of our work.

In 2022–23, we tabled 11 reports to Parliament, including 7 special reports.

The 7 special reports are:

- (1) Modifying public housing properties to meet the needs of tenants with disability — issues identified through Complaints¹⁴ (tabled 29 July 2022). See page 42 for more information.
- (2) Specialist homelessness services: helping people with high or complex needs¹⁵ (tabled 31 August 2022); see page 47 **Monitoring the delivery of community services and related programs** for more information.
- (3) The COVID-19 pandemic: second report¹⁶ (tabled 7 September 2022); see page 43 for more information.
- (4) Formal Investigations - Summary Report 2021-22¹⁷ (Annexure to Annual Report) (tabled 25 October 2022).
- (5) PID Audit report - summary of PID audits of 6 councils¹⁸ (tabled 21 November 2022); see page 48 **Oversighting the public interest disclosures scheme** for more information.
- (6) Aboriginal Outcomes Strategy focus area 2 (out-of-home care) — were the targets achieved?¹⁹ (tabled February 2023); See page 46 **Monitoring the delivery of community services and related programs** for more information.
- (7) More than shelter — outstanding actions to improve the response to children presenting alone to homelessness services²⁰ (tabled 29 May 2023); see page 46 **Monitoring the delivery of community services and related programs** for more information.

14. See our report: www.ombo.nsw.gov.au/__data/assets/pdf_file/0005/138047/Modifying-Public-Housing-properties-to-meet-the-needs-of-tenants-with-disability_v1.1.pdf.

15. See our report: www.ombo.nsw.gov.au/__data/assets/pdf_file/0020/138161/Specialist_homelessness_services_special_report.pdf.

16. See our report: www.ombo.nsw.gov.au/__data/assets/pdf_file/0018/138213/The_COVID-19_pandemic_second_report.pdf.

17. See our report: www.ombo.nsw.gov.au/Find-a-publication/publications/reports-to-parliament/reports-following-investigations/formal-investigations-summary-report-2021-22.

18. See our report: www.ombo.nsw.gov.au/__data/assets/pdf_file/0009/138375/PID-Audit-report-summary-of-PID-audits-of-6-councils.pdf.

19. See our report: www.ombo.nsw.gov.au/__data/assets/pdf_file/0005/138560/Aboriginal-Outcomes-Strategy-focus-area-2-Out-of-home-care-were-the-targets-achieved_web.pdf.

20. See our report: www.ombo.nsw.gov.au/__data/assets/pdf_file/0020/138710/More-than-shelter-special-report-2023.pdf

Reports to Parliament

2022

29 July



Modifying public housing properties to meet the needs of tenants with disability – issues identified through complaints

31 August



Specialist homelessness services: helping people with high or complex needs

7 September



The COVID-19 pandemic: second report

25 October



NSW Ombudsman Annual Report 2021–22



NSW Child Death Review Team Annual Report 2021–22



Formal investigations – summary report 2021–22: A summary of completed investigations under section 13 of the Ombudsman Act 1974 for the period from 1 October 2021 to 30 September 2022

21 November



Public Interest Disclosures Act 1994 Audit Report: Summary of Public Interest Disclosure Audits of 6 Local Councils



Oversight of the Public Interest Disclosures Act 1994 Annual Report 2021–22

9 December



Effects of perinatal conditions and local area socioeconomic status on early childhood mortality in New South Wales: linked data analysis

2023

28 February



Aboriginal Outcomes Strategy focus area 2 (out-of-home care) – were the targets achieved?

29 May



More than shelter – outstanding actions to improve the response to children presenting alone to homelessness services

Monitoring implementation of our recommendations

When we make recommendations to the NSW Government or agencies within our jurisdiction, we seek to ensure that they are evidence-based, practical and likely to lead to demonstrable improvements in administrative practice. We monitor the implementation of our recommendations to ensure that accepted recommendations are implemented in a timely manner.

Below are some examples of outcomes achieved and improvements made by agencies that responded positively to our recommendations made in investigation reports.

Improved disability modification processes — Department of Communities and Justice Housing and the Land and Housing Corporation

On 29 July 2022 we tabled the special report *Modifying Public Housing Properties to Meet the Needs of Tenants with Disability — Issues Identified through Complaints*. The report followed our investigation into the experiences of public housing tenants with a disability who requested modifications to their premises. This involved an in-depth investigation into the experiences of 3 tenants, as well as a wider review of agency records, policies and procedures and conduct of voluntary interviews.

We made 27 recommendations to DCJ Housing and the Land and Housing Corporation (LAHC) to improve disability modification processes.

In response to our recommendations, LAHC has told us that it will:

- double its budget for disability modifications in 2022–23, with the increased expenditure continuing in 2023–24
- review and amend its disability modifications policy and home modification guidelines
- develop and deliver mandatory training for staff around the assessment and co-ordination of disability modifications
- simplify documentary requirements for tenants requesting basic home modifications

- implement a process to install reasonable ‘interim’ modifications for tenants awaiting transfer or significant home modifications, to mitigate safety risks.

DCJ Housing has made some progress in improving data collection in its Client Feedback Unit to enable it to collect data on complaints made about disability modifications and has established a shared disability modifications register with LAHC. It has also completed a review of the disability modifications process and related procedures.

Better handling of public interest disclosures — Department of Planning and Environment and Department of Regional NSW

On 13 December 2022 we finalised investigations into the handling of PIDs by the Department of Planning and Environment (DPE) and the Division of Resources and Geoscience (DRG) (which was then a division of DPE but is now part of the Department of Regional NSW (DRNSW)).²¹ In a ‘statement of provisional findings and recommendations’ provided to the agency, we recommended that DRNSW review its PID policies and procedures, develop quality assurance mechanisms for investigations into disclosures of wrongdoing and provide us with advice about the steps they had taken since July 2019 to improve their PID systems and staff awareness of PIDs.

In response to our provisional recommendations, DPE advised us that it had implemented initiatives to improve staff awareness of PIDs and its PID investigations, including staff training in preparation for the roll out of the new *Public Interest Disclosures Act 2022 (PID Act)* in October 2023. DRNSW has also implemented staff training and is reviewing its PID policy and procedures in preparation for the implementation of the new PID Act. It has advised that it will provide additional training for all staff and for nominated PID disclosure officers. Taking into account the actions already taken by DPE and DRNSW, we made no further recommendations in the final reports.

21. DRG is now known as Mining, Exploration and Geoscience (MEG) and has moved to the Department of Regional NSW (DRNSW) following machinery of government changes in 2020.

Resolving delay — former Division of Resources and Geoscience, now Mining, Exploration and Geoscience

On 16 January 2023, we finalised an investigation into delays in processing mining applications by the former DRG,²² now known as MEG within DRNSW. We made 4 recommendations. DRNSW has reported progress in identifying the root causes of the application backlogs and has advised us that it is updating its policies and procedures.

Improved processes and apology — City of Ryde Council

On 1 April 2022, we made 7 recommendations to City of Ryde Council following an investigation into its conduct in managing a stormwater drainage issue at a private property in the council area. In response to our recommendations, council told us that it developed or updated its processes and guidance material for staff on:

- dealing with stormwater issues
- issuing and monitoring compliance with orders it makes under the *Local Government Act 1993* the use of its Development Control Plan as a standard for existing properties not undergoing redevelopment
- its information and record-keeping responsibilities.

As recommended, the Council also apologised to the lifetime tenant of the property where the drainage works were undertaken.

The COVID-19 pandemic: second report

In this special report²³ (September 2022), we looked back on complaints and other contacts received by our office since our first report on the COVID-19 pandemic²⁴ (March 2021). The number of COVID-related actionable complaints to our office rose significantly to 1,046 in the second year of the pandemic — more than double the number received in 2020–21.

The largest increase in complaints came from the custodial system, with 5 times as many complaints in 2021–22 about custodial services than in 2020–21. Lockdowns and visit prohibitions were extended to prevent transmission of COVID-19 into and across centres. As a result, many inmates had less time out of their cells, reduced access to programs and to work, and fewer visits and in-person contact with loved ones.

The second year of the pandemic also saw a significant (but temporary) spike in complaints about Service NSW, which had to quickly pivot to process COVID-related grants. Both of our reports note the limited parliamentary oversight of public health orders and the challenges faced by the public in knowing and understanding what the rules were at any given time.

The Ombudsman emphasised the importance of effective complaints mechanisms in times of crisis, while also acknowledging the efforts of government agencies and particularly frontline staff in responding to the pandemic over the past two and a half years.

Keynote presentation at Heads of Workplace Safety Authorities Forum

Staff from our office were invited to speak at the Heads of Workplace Safety Authorities Annual Inspector Forum about the Ombudsman's special report to Parliament — *Investigation into Actions Taken by SafeWork NSW Inspectors in relation to Blue Mountains City Council Workplaces*. The forum was hosted by SafeWork NSW, who had been sharing what they had learnt from the report and the actions taken by SafeWork NSW in response to the recommendations in the report.

Deputy Ombudsman Sanya Silver and Legal Counsel Megan Smith presented a keynote address to inspectors and regulatory staff from across Australia and New Zealand on the topic of exercising discretionary powers and discretionary decision-making practice.

22. During the investigation period, DRG went through several restructures and machinery of government changes. Initially known as the Division of Resources and Energy, located within the former Department of Industry, the division was transferred from the Department of Industry to the Department of Planning and Environment and became known as the Division of Resources and Geoscience.

23. See our report: www.ombo.nsw.gov.au/Find-a-publication/publications/reports-to-parliament/other-special-reports/the-covid-19-pandemic-second-report.

24. See our report: www.ombo.nsw.gov.au/Find-a-publication/publications/reports-to-parliament/other-special-reports/2020-hindsight-the-first-12-months-of-the-covid-19-pandemic.

Preventing maladministration in the public sector

Public administration ‘In Focus’ occasional papers

This year we published 2 occasional papers to assist agencies and public officials to understand and avoid the risks of maladministration.

NSW State election

Our February 2023 paper, *Avoiding Maladministration in the Context of the NSW State Election*,²⁵ considered how the context of an election year can give rise to different or heightened risks of maladministration by agencies and staff. We looked at the importance of complying with caretaker conventions while also continuing to fulfil administrative functions. Among other issues, we highlighted the importance of public servants remaining apolitical and impartial and avoiding conflicts of interest.

Use of social media

In June 2023, we published *Avoiding Pitfalls When Agencies and Public Servants Use Social Media*.²⁶ By drawing on recent legal cases and social media usage we observed, we looked at some of the ways the social media conduct of agencies and individual public servants could lead to concerns about possible misconduct or maladministration. We emphasised that public sector conduct on social media must be ethical and consistent with public sector values, including the maintenance of political impartiality when making comments on social media. We also included our observations about the potential for social media to provide an additional avenue for agencies to receive complaints.

Our occasional papers are intended to draw attention to topical issues impacting NSW public administrative conduct for public servants. The papers do not contain formal recommendations, but instead seek to promote deeper consideration

of ways to improve public administration, and to avoid conduct that might constitute or involve maladministration.



New guidance on automated decision-making

In March 2023, we published new guidance on automated decision-making (ADM) in the public sector. The guidance outlines how administrative law relates to the use of automation technologies including artificial intelligence (AI) and directs agencies to their legal teams for further information, as well as to our comprehensive related special report tabled in November 2021.²⁷

Agencies were given guidance on 5 key proactive steps to take whenever consideration is given to adopting a new ADM system or a current system is under review.²⁸

The Ombudsman’s papers, guidance and other resources for agencies are intended to support agencies in reducing risk as well to encourage good administrative practices.

25. NSW Ombudsman, *Avoiding Maladministration in the Context of the NSW State Election* (InFocus Paper, 9 February 2023) [Avoiding maladministration in the context of the NSW State election - NSW Ombudsman](#).

26. NSW Ombudsman, *Avoiding Pitfalls When Agencies and Public Servants Use Social Media* (Paper, June 2023) [Avoiding pitfalls when agencies and public servants use social media - NSW Ombudsman](#).

27. NSW Ombudsman, *The New Machinery of Government: Using Machine Technology in Administrative Decision-making* (Report, November 2021) [The new machinery of government: using machine technology in administrative decision-making - NSW Ombudsman](#).

28. NSW Ombudsman, ‘Automated Decision-making in the Public Sector’ [Automated decision-making in the public sector - NSW Ombudsman](#).

13th National Investigations Symposium



NSW Ombudsman executives speaking at the NIS conference

On 24–25 May 2023, we co-hosted the 13th National Investigations Symposium with the NSW Independent Commission Against Corruption and the NSW Chapter of the Institute of Public Administration Australia at the Four Seasons Hotel, Sydney. The symposium was held to enhance the skills and knowledge of investigators, complaint handlers, auditors and senior public sector managers to develop their approaches to complaint-handling and investigative practice. The symposium attracted 569 attendees from over 180 local, state and federal public sector agencies as well as NGOs and private organisations.

Six interactive, practical workshops preceded the symposium on 23 May 2023, with 165 participants and topics covering the fundamentals of complaint-handling and managing unreasonable complainant conduct, investigative techniques and investigation report writing, administrative law and resilience for complaint handlers and investigators.

The symposium itself featured keynote speakers addressing a large-scale and high-profile fraud case, psychological safety and the role of investigative journalism. Panelists and presenters across the 2-day conference shared insights into a range of contemporary and emerging areas including:

- automated decision-making
- developments in PIDs and the importance of fostering a ‘speak-up’ culture
- approaches to interviewing children and young people
- working with First Nations communities
- safeguarding the psychological wellbeing of all parties in an investigation, including investigators themselves
- conducting workplace and disciplinary investigations
- exploring the role of conciliation in complaint-handling during an investigation
- examining forensic accounting case studies and outlining best practice techniques for investigations involving abuse and neglect.

Delegates commended the breadth of the symposium topics and appreciated its underlying themes of welfare and taking a people-centred approach to investigations.

Monitoring and assessment of Aboriginal programs

Outcome 1 Outcome 2 Outcome 3 Outcome 4



Under Part 3B of the Ombudsman Act, we monitor and assess designated ‘Aboriginal programs’, currently prescribed as OCHRE (Opportunity, Choice, Healing, Responsibility, Empowerment), the NSW Government’s overarching plan for Aboriginal affairs. The NSW Government has increased OCHRE coverage across the state with additional sites and regional areas to reach more people and communities. Key initiatives of OCHRE include:

- Connected Communities (33 schools)
- Local Decision Making (7 Regional Alliances)
- Aboriginal Language and Culture Nests (7 locations)
- Opportunity Hubs (5 service areas)
- Solution Brokerage (statewide)
- the Aboriginal Economic Prosperity Framework.

Monitoring the delivery of community services and related programs

Outcome 1 Outcome 2 Outcome 3 Outcome 4



Aboriginal outcomes strategy focus area 2 (out-of-home care) — were the targets achieved?

In 2017, the Department of Communities and Justice (DCJ) announced a 5-year plan to reduce the overrepresentation of Aboriginal children in OOHC. Because DCJ did not report publicly on the plan’s implementation and outcomes, as it had undertaken to do, we independently assessed and reported on what was done and achieved.

We found that much of what was planned did not occur, and that at some point over the 5 years DCJ had effectively abandoned the strategy. On 28 February 2023 we tabled a report noting that DCJ did not achieve the overall goal of reducing overrepresentation of Aboriginal children in OOHC.

More than shelter — outstanding actions to improve the response to children presenting alone to homelessness services

In May 2023, we tabled our third report since 2018 on the responses to children aged 12–15 who present alone — without a parent or guardian — to specialist homelessness services. Our report acknowledged positive progress by DCJ in some areas but also found a lack of progress with other recommendations we made, such as improving data collection and monitoring responses and outcomes for unaccompanied homeless children. As with our 2018 and 2020 reports, we identified a continuing scarcity of available and reliable information about these children. We were particularly concerned about the lack of reliable data on children under 12 presenting alone, given DCJ’s policy acknowledges that unaccompanied children under 12 may be seeking homelessness services.

The continuing impact of our work

Our work can have far-reaching impact beyond the reports that we publish.

OCHRE Review Report

In our 2019 *OCHRE Review Report*,²⁹ we recommended that NSW Treasury develop and publish an annual State of the NSW Aboriginal business sector profile based on relevant data and advice from the NSW Indigenous Chamber of Commerce and other sector representatives.

Following our recommendation, NSW Treasury published the first *NSW First Nations Business Sector Report* in October 2022.³⁰ It was designed to help the NSW Government and interested stakeholders support First Nations businesses to start, grow and prosper, and support self-determined connections to the community, culture and Country. Embodying the OCHRE principles, the report was created through partnership and collaboration with the First Nations representatives in the public sector, taking a strengths-based approach and focusing on capabilities, skills, knowledge, connections and potential in individuals and communities.

29. NSW Ombudsman, ‘OCHRE Review Report’, 28 October 2019 [OCHRE Review Report \(nsw.gov.au\)](#).

30. NSW Treasury, *The NSW First Nations Business Sector: A Return to Prosperity* (Report, October 2022) [The NSW First Nations Business Sector](#).

Following our report, we engaged with DCJ and the Government about our findings, and DCJ has undertaken to refine its data capabilities to ‘improve the outcome delivery proposed in the report’.

Specialist homelessness services: helping people with high or complex needs

We tabled this report on 31 August 2022, following a complaint to our office about the exclusion of a young person with high and complex needs from homelessness services, which prompted us to review access to these services for people with high or complex needs. We found DCJ had provided inadequate rules, guidance and support to specialist homelessness services about when it is, and is not, permissible and appropriate for services to consider excluding or evicting a homeless person. Our recommendations included that DCJ should establish a comprehensive policy on access, exclusion, eviction and withdrawal of services to homeless people. DCJ has established a multi-agency working party to address the recommendation.

Review of the Department of Communities and Justice’s complaint-handling system (Aboriginal child protection)

We are currently reviewing DCJ’s system for handling complaints from, or concerning, Aboriginal children in the child protection and OOHC system. This review will assess the overall effectiveness of the complaint-handling system and includes targeted stakeholder engagement with Aboriginal stakeholders to understand the qualitative experiences of Aboriginal people in the child protection and OOHC system. It will also consider how effectively DCJ monitors the compliance of funded OOHC service providers with their contractual obligations to handle complaints involving Aboriginal children.

Reviewing the deaths of children

Outcome 1 Outcome 2 Outcome 3 Outcome 4



Convening the NSW Child Death Review Team

The Ombudsman convenes the NSW Child Death Review Team (CDRT), which consists of experts in health, child development, child protection and research, and representatives of key government agencies.

The purpose of the CDRT is to analyse the trends and patterns in deaths of children by cause, demographic and other factors, and to make recommendations that may assist in preventing or reducing the likelihood of child deaths. The CDRT maintains a register of child deaths and undertakes research that aims to assist with the prevention or reduction of child deaths. Approximately 450–500 children aged 0–17 years die in NSW each year.

Comprehensive details of the CDRT’s activities and recommendations, and the progress of agencies’ implementation of recommendations are included in the CDRT’s annual reports and the combined biennial child death reports, which are available on our website.³¹ The next biennial report (deaths of children in 2020 and 2021) will be tabled in late 2023, and will annex a CDRT research report into infants deaths from severe perinatal brain injury among infant deaths – under section 34H of CSCRAMA.

Reviews of deaths of children in circumstances of abuse or neglect or children in care

A child’s death is reviewable by the NSW Ombudsman if that child:

- a) was living in care or had been in detention at the time of their death, and/or
- b) died as a result of abuse or neglect, or in circumstances suspicious of abuse or neglect.

These are referred to as ‘reviewable deaths’.

31. See NSW Ombudsman website: www.ombo.nsw.gov.au/Find-a-publication/publications/child-death-review-team-reviewable-deaths/cdrt-annual-reports

The Ombudsman’s reviewable death functions aim to identify agency practice and systems issues that may have contributed to reviewable deaths, or that may expose other children to risks in the future. As part of this work, we consider how agencies and service providers identified and responded to risks and vulnerabilities evident in the lives of the children and their families. We may also consider how relevant agencies responded to the death, such as the quality of subsequent critical incident investigations.

Reviewable deaths that occurred in 2020 and 2021 will be reported in an annexure to the next biennial report (deaths of children in 2020 and 2021) to be tabled in late 2023.

Effects of perinatal conditions and local area socio-economic status on early childhood mortality in New South Wales

This report tabled in December 2022 was a collaboration with the Australian Institute of Health and Welfare (AIHW). It contained important findings about early childhood mortality, including that preterm birth was found to be the strongest and most consistently significant risk factor for infant mortality, especially for infants born under 32 weeks gestational age. Other consistent significant risk factors for infant deaths included being born with a birthweight that is small for gestational age or being born to a teenage mother (aged 19 or under). The report confirms previous findings of a pronounced narrowing of the gap in infant mortality between Aboriginal and non-Aboriginal infants across the 15-year period (2005–19).

An unexpected result of the research was that area-level socio-economic status indicators (based on the usual place of residence of the mother at the time of the birth) were not found to be consistently significant risk factors when other maternal and infant characteristics in the perinatal records were accounted for.

This report demonstrates that, for the first time in NSW, perinatal (birth) and death records can be reliably linked. Doing so provides a richer understanding of risk of early childhood death than can be achieved through consideration of death records alone.

Oversighting the public interest disclosures scheme

Outcome 1

Outcome 2

Outcome 3

Outcome 4



Our office is responsible for overseeing the PID scheme in NSW. In 2022–23 we carried out our statutory functions under the *Public Interest Disclosures Act 1994* and supported the implementation of the *Public Interest Disclosures Act 2022 (PID Act)*, which commenced on 1 October 2023. We will have the following enhanced statutory functions under the PID Act:

- promoting public awareness and understanding of the legislation and its objects
- providing information, advice, assistance and training to agencies and public officials
- developing and publishing guidelines and other materials for the assistance of agencies, public officials and other persons
- auditing and monitoring agencies on how they undertake their functions under the new PID Act
- providing reports and recommendations to the Premier and the Special Minister of State about proposals for legislation and administrative change.

In 2022–23 we developed an operating model that supports our enhanced functions under the new PID Act.

PID audit report — summary of PID audits of 6 local councils

We conducted a comprehensive audit of the PID policies and practices of 6 local councils that reported to us that they received no PIDs over the 3-year period from 2018–20. On 21 November 2022, we tabled a report in Parliament (*PID Audit report - summary of audits of 6 local councils*)³² summarising our findings from the 6 audits and drawing out key themes relevant to the broader local government sector.

We also made 10 recommendations. The recommendations address legislative compliance and aim to assist agencies to enhance reporting culture and practice and help them to prepare for their enhanced obligations under the new PID Act.

32. See NSW Ombudsman, *PID Audit report - summary of audits of 6 councils* report: www.ombo.nsw.gov.au/Find-a-publication/publications/reports-to-parliament/other-special-reports/pid-audit-report-summary-pid-audits-of-6-councils.

Campaign to raise awareness of the new *Public Interest Disclosures Act 2022*

PID

Providing advice

We recruited specialist staff to provide advice to NSW Government agencies on the new PID Act. We responded to requests for advice on a range of topics, including PID protections, policy requirements, the meaning of ‘maladministration’, assessing PIDs and how to make a PID.

Guidelines and other supporting material

We started developing resources to help prepare agencies for the PID Act, including guidelines on the new PID Act and a model PID policy to help agencies draft their own PID policies. This included working on awareness videos and factsheets and training modules to support agencies in meeting their PID obligations.

Agency engagement

We provided engagement and awareness-raising activities to support the implementation of the new PID Act, including meetings with relevant staff within agencies and executive groups. We also delivered sessions in the following forums: the Corruption Prevention Network; local government networks; the Australian Public Sector Anti-Corruption Conference; the National Investigations Symposium and Whistleblowers Australia.

Aboriginal community engagement

We have been actively engaging with the Aboriginal Land Council network, including Local Aboriginal Land Councils. We held roundtable discussions with the Office of the Registrar Aboriginal Land Rights Act and the NSW Aboriginal Land Council, and we are currently establishing communications and engagement strategies for the Aboriginal Land Council sector — including developing culturally contextualised learning materials and products to assist Aboriginal Land Councils to meet their obligations under the new PID Act.

PID training and forums

In 2022–23, we held 25 PID management sessions attended by a total of 995 people. This included 3 workshops at the Australian Public Sector Anti-Corruption Conference. We also delivered 3 Corruption Prevention Network seminars.

Oversight of mandatory disease testing

Outcome 1

Outcome 2

Outcome 3

Outcome 4



As outlined in **chapter 1**, the *Mandatory Disease Testing Act 2021 (MDT Act)* commenced in July 2022. We are required to prepare a report on our monitoring of the operation and administration of the MDT Act as soon as practicable after 12 months from the Act’s commencement. We must then table a report every 3 years in each house of Parliament. We anticipate tabling our first report by July 2024.

Supporting agencies and service providers through training

Outcome 1

Outcome 2

Outcome 3

Outcome 4



In 2022–23 we delivered training workshops across NSW, interstate and internationally.

The workshops covered the following topics:

- managing unreasonable conduct by a complainant
- fundamentals of complaint-handling
- effective complaints management systems
- investigating misconduct in the public sector
- administrative law in the public sector.

Figure 7. External training workshops delivered 2022–23



Training business review — implementation of review outcomes for training

At the end of the 2021–22 financial year, an external organisation completed a business review of the NSW Ombudsman’s external training unit. The review noted that the training function provided by the NSW Ombudsman is strategically important as it increases capability across the public sector and aligns with the Ombudsman’s strategic objectives. The review provided suggestions and insights to inform future training delivery, including a suggestion to focus future engagement and training more on local government and community service providers. It also noted that commencement of the PID Act will result in increased demand for PID training, and that there will be an increased preference for online and mixed-method training delivery due to the ongoing impact of the COVID-19 pandemic response.

Recommendations from the review, including creation of a focused training business unit, stronger strategic oversight, and review by a broad-based internal advisory committee and establishment of working groups comprising representation from across the organisation have been implemented.

Development of new training products and enhancement of existing training through leveraging internal best practice case studies is being led by a new knowledge management officer.

We also invested in a new e-commerce and event management platform to reduce manual processing and better enable course delivery at scale to stakeholders.

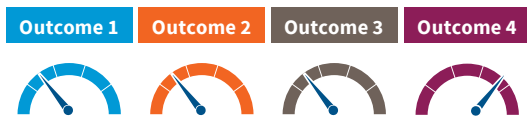
Participant feedback about our training

‘Clear, engaging, perfect pace. No boring or irrelevant additional talk just to the point and informative.’

‘The use of studies and real-life examples helped to put responses to managing unreasonable conduct by a complainant into perspective;’

‘I really enjoyed this course. Noting that the focus is on the “fundamentals” — makes it very relatable and I feel that I will be able to apply the principles learnt in the course to my work and personal life. The facilitator uses real-life, easy-to-grasp examples to really drive the fundamental principles home.’

Supporting members of Parliament to serve their constituents



Complaint referrals from members of Parliament

In 2022–23, members of Parliament referred 4 actionable complaints to us.

Presentation and resources to support new members of Parliament

We are committed to ongoing engagement with Parliament about the role of our office and how we can support members of Parliament and their constituents. We delivered the following presentations:

- In March 2023, the Ombudsman presented at the NSW Parliament’s Legislative Council Staff Development Planning Day on future trends in public administration. The Ombudsman spoke about our role in the context of the increasing use of automated decision-making and AI in the public sector.
- In June 2023, the Ombudsman presented to members of Parliament on our functions and how we can support Parliament in the exercise of its functions. Additionally, we developed a new fact sheet tailored for members of Parliament with information about our office and how to refer complaints from members of the public to us.³³

Our parliamentary oversight committee

The Ombudsman is accountable to a statutory joint parliamentary committee: the Parliamentary Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission. We keep the committee informed about issues affecting our office, including those

that impact our ability to perform our functions effectively. The Committee conducts an annual review of our office, and we appeared before the Committee for that purpose in October 2022.

Contribution to other parliamentary inquiries

We also assist Parliament, especially parliamentary committees, by contributing to inquiries where our experience, expertise and data are relevant to the issues being canvassed. This advice contributes to public debate, effective law making and scrutiny of Executive action. However, we did not contribute to any parliamentary inquiries in 2022–23.

In 2022–23, we commenced drafting a submission for the following parliamentary inquiry, which is receiving submissions during 2023–24:

- Legislative Council Portfolio Committee No 1 — Premier and Finance — Inquiry into artificial intelligence in New South Wales.

3.4 Reporting on our draft key performance indicators

This year we developed a draft suite of key performance indicators (KPIs) to track and measure our performance. The KPIs were published in the February 2023 refresh of our *Strategic Plan 2020–25*.³⁴


Since that time, we have been testing the draft KPIs and identifying available and new sources of information to understand how we are performing. This year we can report results from the external complainant satisfaction, stakeholder satisfaction and community surveys (referred to above) for the first time. In **Table 3** below, we present the results of KPIs where we have information available to report.

We will review the KPIs in the year ahead to ensure that they are measurable and remain relevant to our strategic outcomes.

33. NSW Ombudsman, *NSW Ombudsman Fact Sheet for Members of Parliament* (16 May 2023) [NSW Ombudsman factsheet for members of Parliament](#).

34. NSW Ombudsman, *Strategic Plan 2020–25 — Mid Point Refresh* (February 2023) [Strategic Plan 2020-25](#).

Table 3. Key performance indicators


Key Performance Indicator	Result
 Outcome 1 Complaints to us are resolved effectively and individuals are satisfied with our service	
1A. Individuals and stakeholders can easily access us	
1A.1. Percentage of the public who are aware of our services (disaggregated by group, eg inmates and detainees) ³⁵	Without prompting, 4% of the public identified that they would take an unresolved complaint about a public authority or community service provider to our office. However, when prompted, 59% of the public were aware of our services. <i>From 2,001 community survey respondents</i>
1A.2. Percent of the public (who had a problem with an agency we oversight that was not resolved, or not resolved to their satisfaction, by the agency) who made an actionable complaint to us	27% of the public who had a problem with an agency we oversight that was not resolved, or not resolved to their satisfaction, by the agency made an actionable complaint to us. <i>From 211 community survey respondents</i>
1A.3. Percent of the public who made a complaint to our office — who perceive the process to access us was easy	46% of the public who made a complaint to our office said they found the process to access us was easy or very easy. <i>From 58 community survey respondents</i>
1B. Complainants perceive that their questions and complaints are resolved effectively	
1B.1. Percentage of customers who agree that it was valuable making a complaint to the Ombudsman	43% of customers who made an actionable complaint to us agreed that it was valuable to make a complaint to us. <i>From 940 customer survey respondents</i>
1B.2. Percentage of customers who would contact the Ombudsman again if they had a complaint	54% of customers who made an actionable complaint to us said they would make a complaint to our office again. <i>From 940 customer survey respondents</i>
1C. We provide high standards of customer service	
1C.1. Percentage of customers who are satisfied with the level of service received	34% of customers who made an actionable complaint to us were satisfied with the level of service received. <i>From 940 customer survey respondents</i>
1C.2. Percentage of contacts whose contact was acknowledged within stated timeframes	80% of contacts we received were acknowledged within 10 days. ³⁶
1C.3. Percentage of complaints that were resolved within stated timeframes	>99% of closed actionable complaints were finalised within 12 months. The majority (92%) were finalised within 90 days. ³⁷

35 1A.1 — Disaggregated results are not available this year.

36. Results include actionable complaints, excluded complaints and misdirected contacts.

37. Results include actionable complaints.

Key Performance Indicator	Result
1D. Complainants, public authorities and community service providers perceive our complaints-handling processes as impartial and fair	
1D.1. Percentage of customers who perceive our processes as fair and impartial	45% of customers who made an actionable complaint agreed that we treated them fairly. <i>From 940 customer survey respondents</i>
1D.2. Percentage of customers who perceive our outcomes as valuable and fair	24% of customers who made an actionable complaint to us agreed that the outcome of their complaint was valuable and fair. <i>From 940 customer survey respondents</i>
1D.3. Percentage of public authorities and community service providers who perceive our complaints-handling processes as impartial and fair	87% of public authorities and community service providers who had contact with us regarding complaints about their organisation agreed that we at all times acted impartially and fairly towards their organisation. <i>From 62 stakeholder survey respondents</i>
1D.4. Percentage of public authorities and community service providers who perceive our complaints-handling outcomes as fair	80% of public authorities and community service providers who had contact with us regarding complaints about their organisation agreed that we made fair and reasonable conclusions, findings and decisions about their organisation. <i>From 55 stakeholder survey respondents</i>
 Outcome 2 Public authorities and community service providers are held to account for serious wrong conduct	
2B. We pursue the most important investigations, inquiries and reviews	
2B.1. Count of issues we pursue which are ranked as highly important by both the public and us	The importance to the public of the issues we pursued and reported on publicly was high overall. All 7 issues addressed in our public reports were rated as very or extremely important by more than 47% of the public. The percentage of the public who rated the top 5 issues important ranged from 58 to 82%. <i>From 1,754 community survey respondents</i>
 Outcome 3 Improvements in public administration and community service delivery occur as a result of our work	
3A. Public authorities and community service providers perceive our recommendations as impartial, fair and robust	
3A.1. Percentage of public authorities and community service providers who perceive our investigatory and monitoring processes as impartial and fair	69% of public authorities and community service providers who were subject to an investigation or engaged with us regarding our monitoring of Aboriginal programs or community services agreed that we at all times acted impartially and fairly towards their organisation. <i>From 16 stakeholder survey respondents</i>

Key Performance Indicator	Result
3C. Public authorities and community service providers are provided the information and support they need to avoid administrative wrongs	
3C.2. Percentage of public authorities and community service providers employees who agree that the Ombudsman provides the information and support they need for avoiding administrative wrongs	Public authorities and community service providers agreed that our information materials on specific topics, fact sheets and e-learning modules were useful (94%), relevant (92%), helpful in supporting continuous improvement (92%), easy to understand (92%), practical and helpful to translate theory/ requirements into action (89%). <i>From 61 stakeholder survey respondents</i>
 Outcome 4 Parliament gets support from us in the exercise of its functions	
4A. Parliament is satisfied that we are performing our functions	
4A.1. Nature of commentary in Parliamentary Committee on the Ombudsman Annual Report	No recommendations were directed to the Ombudsman. The Committee commended our work on supporting the introduction of the new PID scheme and the work of the Child Death Review Team for undertaking a range of important research projects. <i>NSW Parliament Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission, '2022 Review of the annual and other reports of oversight agencies', December 2022</i>



4 Management and accountability



Current staff members

4.1 Our people

The NSW Ombudsman aims to be an employer of choice with a workforce that is diverse, highly engaged and capable, bound together by shared values, purpose and culture.

Number of staff

As at 30 June 2023 our workforce consisted of 206 people. Our people have diverse skills and experience and come from a range of backgrounds, including community and social work, legal, planning, investigative, law enforcement and child protection.

Our staff are employed under the provisions of the *Government Sector Employment Act 2013*, along with associated rules and regulations and the Crown Employees (Public Service Conditions of Employment) Award 2009. These industrial instruments set out the working conditions and entitlements offered to staff.

Table 4. Full-time equivalent staff levels (as at 30 June)

	2022	2023
Complaints and Resolution	43.9	62.3
Investigations and Major Projects	8.6	22.9
Monitoring and Review	21.5	24.4
Aboriginal Programs	6.0	8.0
Systems Oversight (including the PID Unit)	N/A	12.7
Legal, Governance and Risk	4.0	7.0
Corporate Services	21.4	39.0
Enabling Services	9.8	16.4
Executive Strategy and Support*	6.0	9.0
Total	121.2	201.7

* Includes Divisional Executives. Branch Executives are counted within their respective branches.

Senior executive

Table 5. Senior executive remuneration — average range across all positions (as at 30 June)

Band	2022		2023	
	Female	Male	Female	Male
Band 4 (equivalent)	0	1	0	1
Band 3	0	0	0	0
Band 2	1	1	1	1
Band 1	6	0	9	4
Total	7	2	10	6
(male and female) Total	9		16	

* At 30 June 2023, 3 people were acting in a shared capacity to fill a vacant Band 1 role, 1 person was acting in a Band 1 role to backfill for someone on parental leave, and 2 people had short-term Band 1 roles for project-based activities.

Table 6. Senior executive remuneration — average range across all positions (as at 30 June)

Band	2022		2023	
	Range \$	Average \$	Range \$	Average \$
Band 4 (equivalent)	499,251–576,700	512,545	509,251–588,250	520,385
Band 3	354,201–499,250	N/A	361,301–509,250	N/A
Band 2	281,551–354,200	326,345	287,201–361,300	341,700
Band 1	197,400–281,550	254,439	201,350–287,200	233,528

Table 7. Senior executive remuneration as a percentage of total employee-related expenditure (year ended 30 June)

	2022	2023
Percentage of total employee-related expenditure	14.5%	20%*

* The percentage for the year ended 30 June 2023 includes the salary of one senior executive on parental leave, 4 senior executive acting arrangements and two short-term senior executive roles.

People Matter Employee Survey result

We conducted the 2022 People Matter Employee Survey (PMES) in August 2022.

We recorded a significant improvement generally across our 2022 PMES results compared to the previous year.

Our response rate was 100% for the third year in a row, and our engagement score increased 5 points to 69%. Flexible working (93%), risk and innovation (88%) and ethics and values (83%) were our highest scoring areas.

We have taken action to respond to our lowest scoring areas: learning and development (60%), communication and change management (60%) and burnout³⁸ (50%). These include:

- improved awareness of training opportunities available to staff via a yearly learning calendar
- delivered specialist change management training
- trained several Mental Health First Aid Officers to be available as a first point of contact for people experiencing mental health issues, providing them with support and guidance.

38. 2022 was the first year the question on burnout was included in the PMES. As such, it is not included in **Table 8**.

Table 8. PMES 2022 results: key topics — comparison against public sector average

Satisfaction area	Ombudsman %		Public sector average %
	2021	2022	2022
Outcomes			
Employee engagement	64	69	64
Job satisfaction	63	76	68
Wellbeing	69	72	58
Customer service	71	73	70
Purpose and direction			
Role clarity and support	63	70	64
Job purpose and enrichment	78	79	70
Risk and innovation	84	88	73
Work environment			
Health and safety	75	81	69
Grievance handling	55	66	53
Inclusion and diversity	80	78	68
Teamwork and collaboration	68	71	62
Flexible working	90	93	63
Enabling practices			
Recruitment	59	65	48
Learning and development	54	60	55
Pay	81	75	48
Recognition	70	76	60
Feedback and performance management	68	61	55
Leadership			
Senior managers	69	63	51
Decision-making and accountability	70	75	60
Communication and change management	68	60	55
Employee voice	75	75	64
Action on survey results	73	73	44
Participation rate	100	100	49

* 2022 was the first year the question on burn out was included in the PMES. As such it is not included in the comparison table.

4.2 Consultants

The office has reassessed the nature of consultant expenses based on guidance provided in *TPG 23-03 Financial Reporting Code for NSW General Government Sector Entities*, and the definition provided by the NSW Procurement Board. Based on the review, we have reclassified certain expenses that were previously classified as consultant expenses in 2021–22. This reclassification has led to a decrease of \$460,000 in consultant expenses in 2021–22.

Table 9. Consultancies valued at less than \$50,000 (2022–23)

Category	Count	Cost \$*
Management Services	2	26,605
Organisational Review	2	52,789
Total (inc GST)	4	79,394

*figure rounded to whole dollars

Table 10. Consultancies valued at \$50,000 or more (2022–23)

Category	Consultant	Nature	Cost \$*
Organisational Review	Brand Council	We engaged Brand Council to help us develop an office-wide brand position framework and strategy. The primary purpose of this work was to allow us to increase awareness of what we do among the general NSW population, including increasing people’s knowledge of their right to complain to us. The engagement sought to make our approach to communicating clearer and more accessible, particularly knowing that the nature of our work is diverse and the people we seek to engage with can often be experiencing some form of vulnerability.	186,230
Organisational Review	Deloitte Touche Tohmatsu	We engaged Deloitte to assist us in preparing materials that would enable us, or another NSW public sector agency, to operationalise a potential new function — being the appointment as a National Preventative Mechanism (NPM) for New South Wales in relation to the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment. This engagement looked at international best practice NPM operations, and proposed staffing requirements, structures and models, along with an overall plan and approach to rapidly stand-up such a function.	164,835
Organisational Review	Ernst & Young Port Jackson Partners	We engaged Ernst & Young Port Jackson Partners to assist us develop a comprehensive and holistic business transformation implementation plan in light of the material increase in ongoing and once-off funding we received in 2022–23. This included a review of our existing strategic plan and developing an integrated end-to-end implementation plan to help ensure the commitments we made to secure additional funding can be achieved successfully.	369,600
		We also engaged Ernst & Young Port Jackson Partners to assist us develop a set of organisational key performance indicators (KPIs) supported by measures and data requirements. This included devising a suite of KPIs to help measure the extent to which we are achieving desired organisational outputs and strategic outcomes.	157,850
Organisational Review	KPMG	We engaged KPMG to review our Aboriginal Program Branch’s operations and focus, and to develop core growth strategies for the Branch. This included providing a refreshed approach to help us best deliver our oversight responsibilities, review and provide advice about our potential role in relation to the NSW Government’s Closing the Gap initiatives, and review and provide advice in relation to the Branch’s role in supporting other Ombudsman functions.	153,580
Management Services	Weston Management Consulting	We engaged Weston Management Consulting to assist in designing a comprehensive learning and development framework and implementation action plan. This included a plan to grow leadership capability, and to assist with identifying learning and development needs for our staff into the future.	154,000
Total (inc GST)			1,186,095

*figure rounded to whole dollars

4.3 Events arising after end of annual reporting period

Other than those identified throughout the Annual Report, there are no events after the end of the annual reporting period that have a significant effect on our operations.

4.4 Internal audit, risk management and insurance activities

As an independent office, we are accountable to the people of NSW through the NSW Parliament.

The work of the Ombudsman is scrutinised by the Parliamentary Committee on the Office of the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission. The Committee examines our annual report and other reports to Parliament and may report to Parliament on any matter relating to our work. However, it cannot review our decisions about individual complaints.

Risk management and insurance activities

Our risk management framework provides the principles and processes for all risk management activities across our office. In 2022–23, we continued to implement strategies to mature our approach to risk management. Our Audit and Risk Committee (ARC) provided us with independent assistance about our risk management practices. The ARC met 6 times and operated in accordance with NSW Treasury requirements.

Key activities included:

- identification of key actions taken to mitigate strategic risks or emerging pressures on strategic risks to inform the Executive's evaluation of strategic risk ratings each quarter
- emphasis on the identification, reporting and management of conflicts of interests for new starters and recruitment activities
- regular attendance by the Governance and Risk unit at all-staff and branch meetings to explore risk management topics in detail for staff awareness and learning.

The NSW Government is a self-insurer and provides cover in respect of all of our Office's activities.

Internal audit activities

The Ombudsman approved the 2022–23 internal audit program following endorsement by the ARC and after consultation with the Executive team. The ARC has closely monitored the development of the internal audit strategy and the completion of audits.

Key activities included:

- executed planned internal audits on reviewable deaths, data governance, workforce planning and recruitment, and stakeholder engagement
- co-designed an assurance map based on our Office's strategic risks
- follow-up of previous internal audit recommendations. The majority of identified issues in completed reviews were classified as 'moderate', the second highest rating. This meant that the issues represented a control weakness, which could have or is having some adverse effect on the ability to achieve process objectives and required near-term management action.

Through a limited tender process, KPMG was reappointed as the internal audit services provider for a 3-year period to 30 June 2026.

4.5 Internal audit and risk management policy attestation statement



Internal Audit and Risk Management Attestation Statement - 2022-2023 Financial Year NSW Ombudsman's Office

I, Paul Miller, am of the opinion that the Ombudsman's Office has internal audit and risk management processes in operation that are compliant with the seven (7) Core Requirements set out in the *Internal Audit and Risk Management Policy for the General Government Sector*, specifically:

Core Requirements	Compliant or non-compliant
Risk Management Framework	
1.1 The Accountable Authority shall accept ultimate responsibility and accountability for risk management in the agency.	Compliant
1.2 The Accountable Authority shall establish and maintain a risk management framework that is appropriate for the agency. The Accountable Authority shall ensure the framework is consistent with AS ISO 31000:2018.	Compliant
Internal Audit Function	
2.1 The Accountable Authority shall establish and maintain an internal audit function that is appropriate for the agency and fit for purpose.	Compliant
2.2 The Accountable Authority shall ensure the internal audit function operates consistent with the International Standards for Professional Practice for Internal Auditing.	Compliant
2.3 The Accountable Authority shall ensure the agency has an Internal Audit Charter that is consistent with the content of the 'model charter'.	Compliant
Audit and Risk Committee	
3.1 The Accountable Authority shall establish and maintain efficient and effective arrangements for independent Audit and Risk Committee oversight to provide advice and guidance to the Accountable Authority on the agency's governance processes, risk management and control frameworks, and its external accountability obligations.	Compliant
3.2 The Accountable Authority shall ensure the Audit and Risk Committee has a Charter that is consistent with the content of the 'model charter'.	Compliant

Membership

The independent chair and members of the Audit and Risk Committee during the 2022-2023 financial year were:

- Vicki Allen, Independent Chair appointed 24 May 2022 to 23 May 2025
- Peter Scarlett, Independent Member appointed 27 June 2021 to 26 June 2026
- Robyn Gray, Independent Member appointed 24 May 2022 to 23 May 2027.

Paul Miller
NSW Ombudsman
10 August 2023

Chris Clayton
Chief Audit Executive
10 August 2023

4.6 Cyber Security Policy attestation statement

ABN 76 325 886 267
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Cyber security attestation statement for the 2022-23 financial year for the NSW Ombudsman's Office

I, Paul Miller, am of the opinion that the NSW Ombudsman's Office (**the Office**) has identified and is actively managing cyber security risks in a manner consistent with the guidance set out in the NSW Government Cyber Security Policy (**the Policy**).

Identified cyber security risks have been assessed and are currently being managed within the constraints of the existing resources and capabilities of the Office.

Governance arrangements are in place to assess and manage the cyber security maturity and initiatives of the Office.

The Office's cyber incident response plan is up to date and has been tested during the 2022-23 reporting period. The Office plans to continue testing its cyber incident response plan on a yearly basis.

An Information Security Management System is in place. An independent assessment against the Australian Cyber Security Centre Information Security Manual was completed in the 2022-23 reporting period. The assessment has identified areas for improvement in controls which the office plans to address during the 2023-24 and future reporting periods.

During the 2022-23 reporting period, the Office continued to make progress towards greater cyber security maturity in line with the requirements of the Policy, including increased maturity levels against the Australian Cyber Security Centre Essential Eight.

A handwritten signature in black ink, appearing to read "Paul Miller".

Paul Miller
NSW Ombudsman

24 October 2023

4.7 Privacy and Personal Information Protection Act compliance

Our Privacy and Information Management Framework incorporates our privacy management plan, which addresses the requirements of both the *Privacy and Personal Information Protection Act 1998* (**PPIPA**) and the *Health Records and Information Privacy Act 2002*. We reviewed our operational procedures to identify and address any systemic issues that might lead to privacy breaches.

We continued to voluntarily notify the Information and Privacy Commission of any data breaches under the voluntary data breach reporting scheme and to strengthen our internal governance processes to better manage and resolve potential breaches of privacy. Anticipating the introduction of a mandatory data breach notification scheme, we confirmed that our current processes for proactively notifying potential data breaches were already aligned with the proposed scheme as well as current best practice.

We received 2 requests for review under Part 5 of the PPIPA during the reporting period.

4.8 Government Information (Public Access) Act reporting

Public access to our information

Under the *Government Information (Public Access) Act 2009* (**GIPA Act**) there is a conclusive overriding public interest against the disclosure of information relating to our complaint-handling, investigative and reporting functions: this information is ‘excluded information’ under the GIPA Act. The secrecy provisions of the *Ombudsman Act 1974* (**Ombudsman Act**) also limit the information we can make publicly available.

This means that we tend to receive few GIPA Act applications, and those we do receive are frequently invalid (as they seek excluded information). Where an applicant applies for information, some of which is excluded information and some of which is not, we assist the applicant to make a valid application for the information that is not excluded information.

We also consider requests for information from the public and other agencies (including for excluded information) to decide whether it might be appropriate for us to exercise discretion to voluntarily disclose requested information under section 8 of the GIPA Act or other legislation.

In accordance with the GIPA Act, we also:

- proactively release ‘open access information’ such as information guides, policy documents and reports tabled in Parliament
- conduct regular reviews of other kinds of government information that should be made publicly available.

In addition, our website provides information about our most recent publications, activities and other information that may be of public interest. This includes public reports and publications, and selected policies, such as our strategic plan and code of ethics and conduct.

Statistical information about access applications

We received 6 valid GIPA applications (which includes 3 application that were partly valid) and 5 invalid GIPA applications in 2022–23.

The following information is reported in accordance with clause 8 of the *GIPA Regulation 2018*:

Clause 8(a): During the yearly review, we reviewed the government information we hold from our new functions under *Mandatory Disease Testing Act 2021*, *Public Interest Disclosures Act 2022* and Ombudsman Act referral powers. No information beyond that already published was made publicly available. We also reviewed the types of information held from our existing functions, and determined no further information should be made public.

The reasons for maintaining the confidentiality of the information held remains unchanged from the previous reporting period. The information relates to matters that we are required to deal with privately and are sensitive in nature.

Clause 8(b): The total number of access applications received by the Ombudsman during the reporting year (including withdrawn applications but not including invalid applications)

Total number of applications received — **6**

Clause 8(c): The total number of access applications received by the Ombudsman during the reporting year that the agency refused either wholly or partly, because the application was for the disclosure of information referred to in Schedule 1 to GIPA (information for which there is conclusive presumption of overriding public interest against disclosure).

Table 11. Number of applications refused

Wholly	0
Partly	0
Total	0

Table 12. Number of (valid) applications by type of applicant and outcome*

	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information is held	Application withdrawn	Total	% of Total
Media	0	0	0	0	0	0	0	0	0	0
Members of Parliament	0	0	0	0	0	0	0	0	0	0
Private sector business	0	0	0	0	0	0	0	0	0	0
Not-for-profit organisations or community groups	0	0	0	0	0	0	0	0	0	0
Members of the public (application by legal representative)	0	0	0	0	0	0	0	0	0	0
Members of the public (other)	3	1	0	3	0	0	0	0	7	100
Total	3	1	0	3	0	0	0	0	7	
% of Total	43	14	0	43	0	0	0	0		

* More than one decision can be made in respect of a particular access application. If so, a recording must be made in relation to each such decision. This also applies to **Table 13**.

Table 13. Invalid applications

Reason for invalidity	Number of applications	% of Total
Application does not comply with formal requirements (section 41 of GIPA)	2	25
Application is for excluded information of the agency (section 43 of GIPA)	6	75
Application contravenes restraint order (section 110 of GIPA)	0	0
Total number of invalid applications received	8	100
Invalid applications that subsequently became valid applications	3	37.5

Table 14. Number of (valid) GIPA applications by type of application and outcome

	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information is held	Application withdrawn	Total	% of Total
Personal information applications*	1	0	0	2	0	0	0	0	3	43
Access applications (other than personal information applications)	2	0	0	1	0	0	0	0	3	43
Access applications that are partly personal information applications and partly other	0	1	0	0	0	0	0	0	1	14
Total	3	1	0	3	0	0	0	0	7	
% of Total	43	14	0	43	0	0	0	0		

* A personal information application is an access application for personal information (as defined in clause 4 of Schedule 4 of GIPA) about the applicant (the applicant being an individual).

Table 15. Conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 of GIPA

	Number of times consideration used*	% of Total
Overriding secrecy laws	0	0
Cabinet information	0	0
Executive Council information	0	0
Contempt	0	0
Legal professional privilege	0	0
Excluded information	0	0
Documents affecting law enforcement and public safety	0	0
Transport safety	0	0
Adoption	0	0
Care and protection of children	0	0
Ministerial code of conduct	0	0
Aboriginal and environmental heritage	0	0
Privilege generally — Schedule 1(5A)	0	0
Information provided to High Risk Offenders Assessment Committee	0	0
Total	0	0

*More than one public interest consideration may apply in relation to a particular access application and if so, each such consideration is to be recorded (but only once per application). This also applies to **Table 16**.

Table 16. Other public interest considerations against disclosure: matters listed in table to section 14 of GIPA

	Number of times consideration used*	% of Total
Responsible and effective government	0	0
Law enforcement and security	0	0
Individual rights, judicial processes and natural justice	1	100
Business interests of agencies and other persons	0	0
Environment, culture, economy and general matters	0	0
Secrecy provisions	0	0
Exempt documents under interstate Freedom of Information legislation	0	0
Total	1	

Table 17. Timeliness

	Number of applications	% of Total
Decided within the statutory timeframe (20 days plus any extensions)	5	83
Decided after 35 days (by agreement with applicant)	0	0
Not decided within time (deemed refusal)	1	17
Total	6	

Table 18. Number of applications reviewed under Part 5 of GIPA (by type of review and outcome)

	Decision varied	Decision upheld	Total	% of Total
Internal review	0	0	0	0
Review by Information Commissioner*	0	4	4	67
Internal review following recommendation under s 93 of GIPA	0	0	0	0
Review by NSW Civil and Administrative Tribunal	0	2	2	33
Total	0	6	6	
% of Total	0	100%		

* The Information Commissioner does not have the authority to vary decisions, but can make recommendations to the original decision-maker. The data in this case indicates that a recommendation to vary or uphold the original decision has been made by the Information Commissioner.

Table 19. Applications for review under Part 5 of GIPA (by type of applicant)

	Number of applications for review	% of Total
Applications by access applicants	6	100
Applications by persons to whom information the subject of access application relates (see section 54 of GIPA)	0	
Total	6	

Table 20. Applications transferred to other agencies

	Number of applications for review	% of Total
Agency-initiated transfers	0	0
Applicant-initiated transfers	0	0
Total	0	0

4.9 Public interest disclosures

NSW Ombudsman internal reporting policy

As a public authority under PID legislation, our office is required to have policies and procedures in place to facilitate the reporting of wrongdoing by staff. We have made our people aware of the PID Act and assured them that they will be provided with protection and support if they make a public interest disclosure (PID). We have an internal reporting policy. The internal reporting policy and internal reporting form is available on our staff intranet and website. New staff are required to read the internal reporting policy as part of their induction, and we provided information about reporting wrongdoing on posters in our office. We encourage staff to report any wrongdoing, and we have made PID awareness training available through our learning management system.

Public interest disclosure statistics

Under the PID Act, we are required to report information about PIDs that we receive from our staff and about our office. In 2022–23, we did not receive any PIDs from members of staff about our office.

The Ombudsman is also an investigating authority under the PID Act and may receive PIDs from public officials about other public authorities.

4.10 Complaints about us

The NSW Ombudsman welcomes feedback about our services, and we take any complaints about our own services and decisions seriously. Complaints provide us with an opportunity to look at the quality of our services and the feedback we receive is used to improve our performance and services.

In 2022–23, we received 26 complaints about the services we provided or the actions of our staff. Issues raised in the formal complaints included allegations of:

- failure to contact the complainant
- unreasonable delays
- poor customer service.

In 14 cases we found the complaints were substantiated or partially substantiated. Our resolution to complaints includes apologising to the complainant and reviewing our policies and practices.

These complaints are treated separately from requests for a review of our decision: see **section 3.3**.

4.11 Report production information

Cost for production

We engaged an external proofreader to assist with the Annual Report 2022–23 at a cost of \$6,490 and an indexer for \$300. The total cost is \$6,790.

Reporting requirements

The Annual Report has been prepared with reference to the *NSW Treasury Policy and Guidelines — Annual Reporting Requirements TPG23-10*. For completeness we note that the following reporting requirements (as prescribed in TPG23-10 unless otherwise stated) are not applicable for the NSW Ombudsman and therefore excluded from the Annual Report: combined annual reports; application for extension of time; land disposal; research and development; implementation of price determination; promotion (overseas visits); requirements arising from employment arrangements (TC15-07); exemptions; disability inclusion action plans (*Disability Inclusion Act 2014* ss 12, 13); investment and liability management performance (TC17-02); and costs and benefits associated with machinery of government (MoG) changes (NSW MoG Changes Guide).

5 Sustainability



5.1 Modern Slavery Act 2018

The *Modern Slavery Act 2018* commenced on 1 January 2022. The Act requires NSW Government agencies to take reasonable steps to ensure the goods and services they procure are not the product of modern slavery. It also requires NSW Government agencies to prepare an annual modern slavery statement from 2022–23, explaining the measures taken to identify and mitigate modern slavery risks in their operations and supply chains.

This year, we commenced a series of focused activities to address the requirements in the Act, including:

- a desktop assessment of the supplier set used by our Office to establish a risk profile, through which it was concluded that the overall modern slavery risk is low, considering the type of procurement used
- delivery of training to staff to identify and mitigate (as far as practically possible) any supplier-related risks
- drafting updates to the Procurement Policy to include a modern slavery statement, and additional checks performed in the procurement process
- adding a modern slavery clause in our purchase order standard terms and conditions
- communication to all the active suppliers in our database to:
 - clarify and highlight our expectations in relation to the management of labour and human rights issues in our supply chain
 - remind them about the mandatory requirement to comply with the NSW Government’s Supplier Code of Conduct
 - provide guidance on the availability of further material on this subject.

No modern slavery issues were raised by the Anti-Slavery Commissioner during the financial year in relation to the operations of our office. The procurement team continues to monitor and assess modern slavery risks as part of ongoing day-to-day processes.

5.2 Workforce diversity

Our office is committed to building a workforce that reflects the diversity of the communities we serve. We do this by maintaining recruitment practices and initiatives that support inclusion and belonging.

Table 21. Trends in the distribution index

Workforce diversity group	Benchmark	2018	2019	2020	2021	2022	2023
Women	100	99	101	101	101	101	97.6
Aboriginal and/or Torres Strait Islander people	100	N/A	N/A	N/A*	N/A*	N/A*	N/A*
People whose first language spoken as a child was not English	100	90	89	89	93	90	93.1
People with disability	100	92	94	N/A*	N/A*	N/A*	N/A*
People with disability requiring work-related adjustment	100	N/A	N/A	N/A*	N/A*	N/A*	N/A*

Note 1: A distribution index score of 100 indicates that the distribution of members of the workforce diversity group across salary bands is equivalent to that of the rest of the workforce. A score of less than 100 means that members of the workforce diversity group tend to be more concentrated at lower salary bands than is the case for other staff. The more pronounced this tendency is, the lower the score will be. In some cases, the index may be more than 100, indicating that members of the workforce diversity group tend to be more concentrated at higher salary bands than is the case for other staff.

* The distribution index is not calculated when the number of employees in the workforce diversity group is less than 20 or when the number of other employees is less than 20.

Table 22. Trends in the representation of workforce diversity groups

Workforce diversity group	Benchmark	2022	2023
Women	50.0%	76.2%	76.9%
Aboriginal and/or Torres Strait Islander people	3.3%	4.0%	4.9%
People whose first language spoken as a child was not English	23.2%	27.0%	26.1%
People with disability	5.6%	9.0%	8.9%
People with disability requiring work-related adjustment	N/A	0.8%	1.0%

Note 1: The benchmark of 50% for the representation of women across the sector is intended to reflect the gender composition of the NSW community.

Note 2: The NSW Public Sector Aboriginal Employment Strategy 2014–17 introduced an aspirational target of 1.8% by 2021 for each of the sector's salary bands. If the aspirational target of 1.8% is achieved, the cumulative representation of Aboriginal employees in the sector is expected to reach 3.3%.

Note 3: A benchmark from the Australian Bureau of Statistics (ABS) Census of Population and Housing has been included for people whose first language spoken as a child was not English. The ABS Census does not provide information about first language but does provide information about country of birth. The benchmark of 23.2% is the percentage of the NSW general population born in a country where English is not the predominant language.

Note 4: In December 2017 the NSW Government announced the target of doubling the representation of people with disability in the NSW public sector from an estimated 2.7% to 5.6% by 2027. More information can be found at: [Jobs for People with Disability: A plan for the NSW public sector](#).³⁹ The benchmark for 'People with disability requiring work-related adjustment' was not updated.

39. See Jobs for People with Disability: www.psc.nsw.gov.au/culture-and-inclusion/disability-employment.

Table 23. Workforce diversity actual staff numbers at census date (22 June 2023)

Salary level of substantive position	Total staff (men, women and unspecified)	Respondents	Men	Women	Intermediate/Intersex/Unspecified gender	Aboriginal and/or Torres Strait Islander people	People from racial, ethnic, ethno-religious minority groups	People whose language first spoken as a child was not English	People with disability	People with disability requiring work-related adjustment
\$32,914–\$67,184 (General Scale)	0	0	0	0	0	0	0	0	0	0
\$67,975–\$73,901 (Grade 1/2)	1	1	0	1	0	0	1	1	0	0
\$75,992–\$83,211 (Grade 3/4)	9	9	0	9	0	0	5	4	0	0
\$89,707–\$98,982 (Grade 5/6)	41	41	7	34	1	3	11	8	3	0
\$101,947–\$112,849 (Grade 7/8)	52	52	12	40	0	2	15	14	7	1
\$116,211–\$128,061 (Grade 9/10)	53	53	15	38	0	1	14	16	5	1
\$134,411–\$155,445 (Grade 11/12)	31	31	7	24	0	2	9	6	2	0
\$182,217 and above (Executive)	16	16	6	10	0	2	4	4	1	0
Total	203	203	47	156	1	10	59	53	18	2

Diversity and inclusion framework

Our office strives to create an inclusive workplace culture that embraces and values diversity and the many communities, places and perspectives of the people we serve. We have a staff-led Diversity and Inclusion (D&I) Advisory Forum that supports the implementation of a range of D&I initiatives to promote greater inclusion and support diversity.

This includes our D&I framework, which sets out our commitment to inclusive work practices and culture and identifies key existing and planned initiatives to support diversity and inclusion in the workplace.

Key actions include:

- becoming a corporate member of Pride in Diversity, ACON
- starting the journey to become a Disability Confident Recruiter in partnership with the Australian Network on Disability (AND)
- partnering with Aboriginal organisations to deliver Aboriginal cultural awareness training
- ongoing support and continued awareness of various diversity and inclusion events.

Development of a Reflect Reconciliation Action Plan

Our office is committed to working towards the development of a Reflect Reconciliation Action Plan (RAP). Undertaking this commitment to a Reflect RAP means we will be scoping and strengthening our relationships with Aboriginal and Torres Strait Islander stakeholders. A RAP will outline the steps our organisation will take to help build strong relationships and respect between non-Indigenous people and Aboriginal and Torres Strait Islander Australians. It will formally create the pathway for tangible social change and reconciliation.

LGBTQIA+ Working Group and Recognition Strategy

This year we started a lesbian, gay, bisexual, transgender, intersex, queer, asexual (LGBTQIA+) Working Group and developed an LGBTQIA+ Recognition Strategy to enable us to embed inclusivity in the way we work. The strategy has a range of objectives and activities to drive equality and inclusion of the LGBTQIA+ community through our work and in our workplace culture.

Proposed workforce diversity strategies

We have progressed the following strategies for 2022–23:

- promoted internal training, education and awareness to grow our inclusive workplace culture
- made more inclusion resources available for our staff through internal communication platforms
- produced a video recruitment campaign to showcase why our office is a great place to work, incorporating the stories from our diverse workforce.

5.3 Our work health and safety

Work health and safety

We have the following health and safety policies and practices in place:

- COVID-19 Safety Protocols for the Office (COVID-safe plan)
- first aid policy
- health and wellbeing policy and framework
- return to work program
- safe driving policy
- work health and safety policy
- working from home policy.

Work Health and Safety Committee

We have a Work Health and Safety (WHS) Committee, made up of elected staff and nominated management representatives, who actively work to identify and resolve safety concerns. The committee reviews and actions the results of internal audits and inspections, identifies work health and safety hazards and risks, and understands the impact of operational and business requirements on the safety and wellbeing of our staff.

Work health and safety injuries and incidents

There was one work-related incident, which was immediately reported and addressed. The injury reported was minor and resulted in no lost time.

There were no non-work-related injuries reported that resulted in lost time in 2022–23.

Workers' compensation claims

We participate in the iCare Treasury Managed Fund, a self-insurance scheme for the NSW public sector. There were no new claims in 2021–22. As at 30 June 2023, there was one open claim.

Table 24. Workers' compensation — 2-year comparison

	2021–22	2022–23
Claims brought forward	1	1
New claims	0	0
Reopened claims	2	0
Claims closed	2	0
Open claims 30 June	1	1

Table 25. Workers' compensation incidence rate — 2-year comparison

	2021–22	2022–23
Number of submitted claims	0	0
FTE staff number	121.2	201.7
Incidence rate (%)	0%	0%

6 Financial performance



6.1 Financial information

Revenue, expenses and financial position

Revenue

The majority of our revenue comes from the NSW Government in the form of a consolidated fund appropriation. This is used to meet both recurrent and capital expenditure. In 2022–23, we received \$38.8 million appropriation, a significant increase of \$13.4 million from 2021–22. Training revenue has increased moderately to \$687,000. Acceptance by the Crown of employee benefits and other liabilities has increased to \$676,000, which is offset against an expense of the same amount. We also recorded a \$70,000 profit share from the 13th National Investigations Symposium conference that we helped organise. Refer to financial statements for additional detail.

Figure 8. 2022–23 Revenue (\$'000)

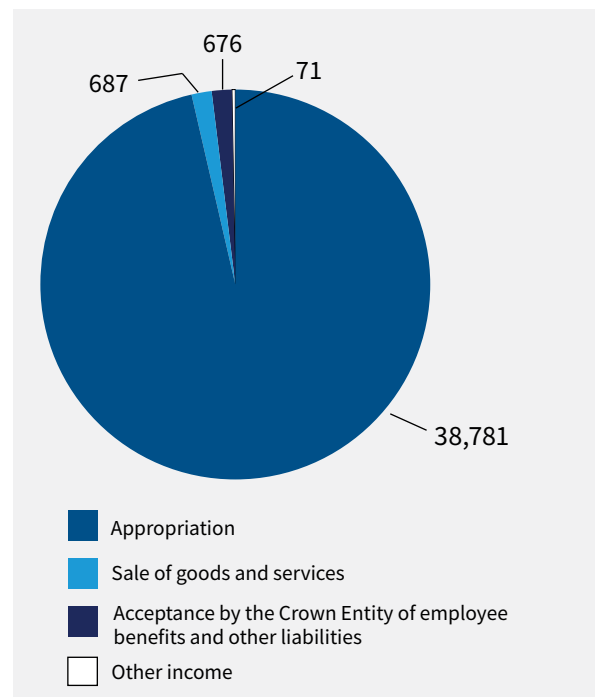
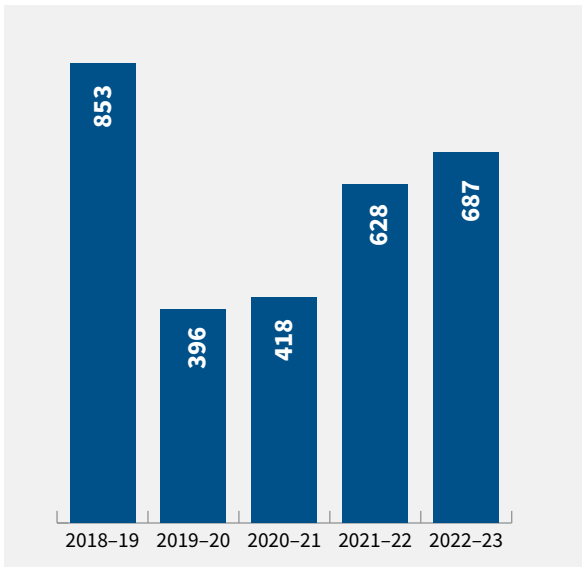


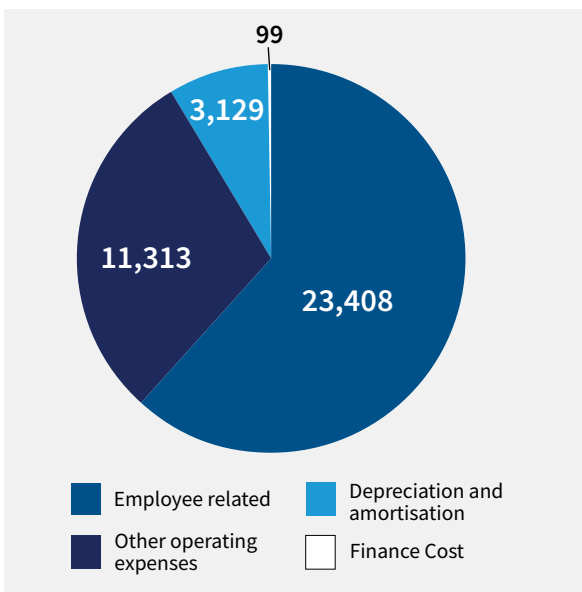
Figure 9. Training revenue (\$'000)



Expenses

Total expenses recorded was \$37.9 million, which was \$6.6 million less than budget primarily due to delays in filling vacant positions as a result of the tight labour market and delays in project work caused by resourcing constraints. Employee-related expenses accounted for 62% of total expenses. The significant operating expenses included consultants (\$1.2 million), contractors (\$4.9 million), maintenance (\$2.3 million), fees⁴⁰ (\$0.8 million) and training costs (\$0.5 million).

Figure 10. 2022-23 expenses (\$'000)

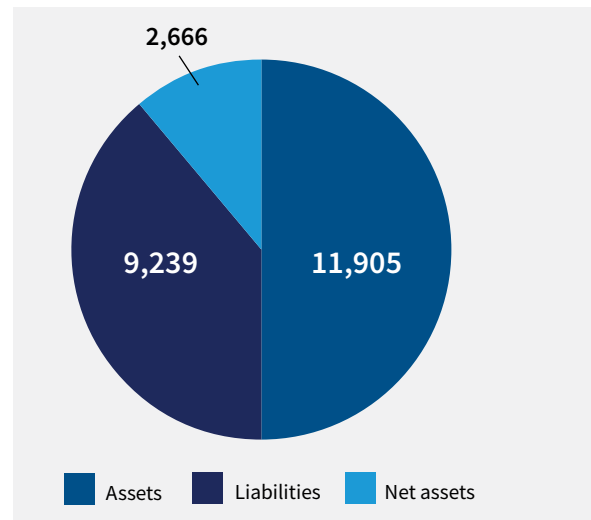


40. Including but not limited to internal audit fees, legal fees, membership fees, storage fees, transcription and translation fees, and trainer fees.

Financial position

Net assets have increased from \$384,000 as at 30 June 2022 to \$2.7 million as at 30 June 2023.

Figure 11. Financial position as at 30 June 2023 (\$'000)



Financial statements

The financial statements are prepared in accordance with legislative provisions and accounting standards, and are audited by the Audit Office of NSW. The independent auditor's report and financial statements can be found in **section 6.2 – Audited financial statements (including Independent Auditor's Report)**.

Payment of accounts

The charts below indicate that on-time payments overall improved during 2022-23 compared to 2021-22. Late payments were mainly due to internal delays in purchase order processing and confirmation of goods and service receipting.

Figure 12. Payment of accounts — All suppliers

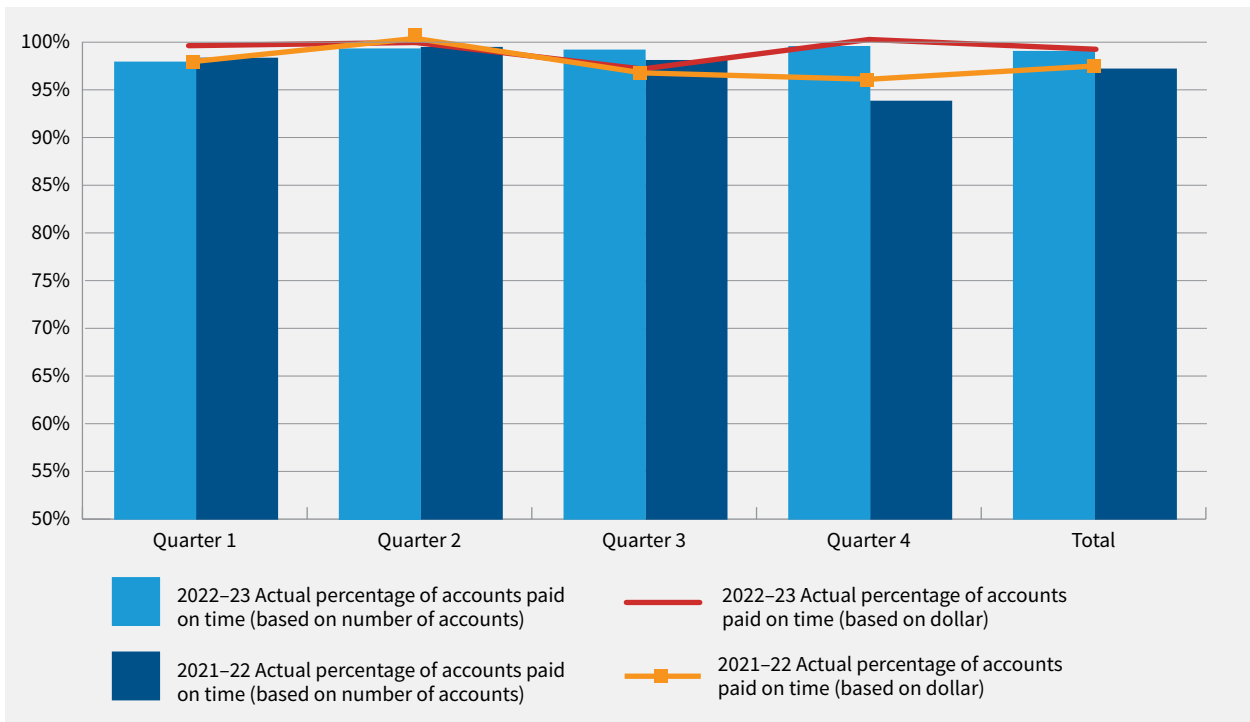
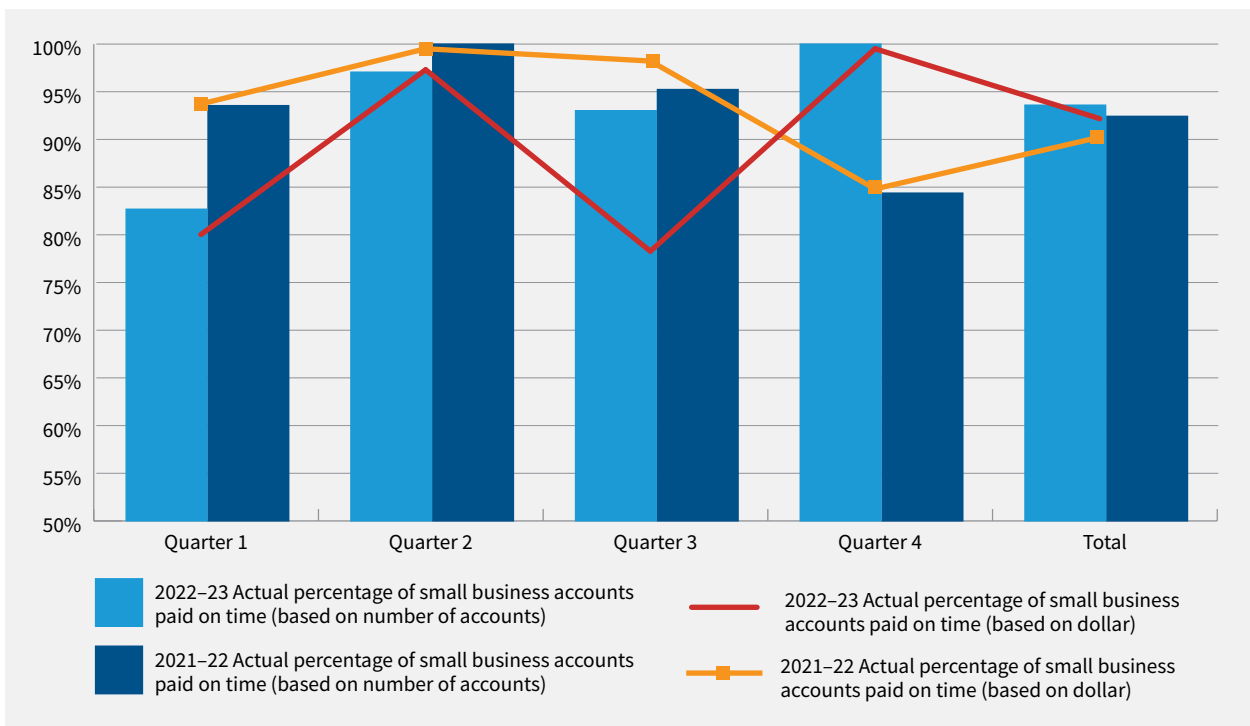


Figure 13. Payment of accounts — small business suppliers



6.2 Audited financial statements (including Independent Auditor's Report)



INDEPENDENT AUDITOR'S REPORT

Ombudsman's Office

To Members of the New South Wales Parliament

Opinion

I have audited the accompanying financial statements of Ombudsman's Office (the Office), which comprises the Statement by the NSW Ombudsman, the Statement of Comprehensive Income for the year ended 30 June 2023, the Statement of Financial Position as at 30 June 2023, the Statement of Changes in Equity and the Statement of Cash Flows, for the year then ended, notes comprising a Statement of Significant Accounting Policies, and other explanatory information.

In my opinion, the financial statements:

- have been prepared in accordance with Australian Accounting Standards and the applicable financial reporting requirements of the *Government Sector Finance Act 2018* (GSF Act), the *Government Sector Finance Regulation 2018* (GSF Regulation) and the Treasurer's Directions
- presents fairly the Office's financial position, financial performance and cash flows.

My opinion should be read in conjunction with the rest of this report.

Basis for Opinion

I conducted my audit in accordance with Australian Auditing Standards. My responsibilities under the standards are described in the 'Auditor's Responsibilities for the Audit of the Financial Statements' section of my report.

I am independent of the Office in accordance with the requirements of the:

- Australian Auditing Standards
- Accounting Professional and Ethical Standards Board's APES 110 'Code of Ethics for Professional Accountants (including Independence Standards)' (APES 110).

Parliament promotes independence by ensuring the Auditor-General and the Audit Office of New South Wales are not compromised in their roles by:

- providing that only Parliament, and not the executive government, can remove an Auditor-General
- mandating the Auditor-General as auditor of public sector agencies
- precluding the Auditor-General from providing non-audit services.

I have fulfilled my other ethical responsibilities in accordance with APES 110.

I believe the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Ombudsman's Responsibilities for the Financial Statements

The Ombudsman is responsible for the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards, the GSF Act, GSF Regulation and Treasurer's Directions. The Ombudsman's responsibility also includes such internal control as the Ombudsman determines is necessary to enable the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Ombudsman is responsible for assessing the Office's ability to continue as a going concern, disclosing as applicable, matters related to going concern and using the going concern basis of accounting.

Auditor's Responsibilities for the Audit of the Financial Statements

My objectives are to:

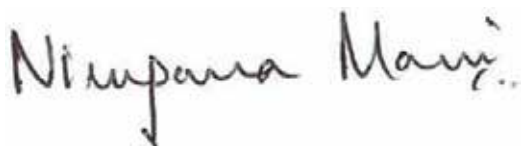
- obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error
- issue an Independent Auditor's Report including my opinion.

Reasonable assurance is a high level of assurance, but does not guarantee an audit conducted in accordance with Australian Auditing Standards will always detect material misstatements. Misstatements can arise from fraud or error. Misstatements are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions users take based on the financial statements.

A description of my responsibilities for the audit of the financial statements is located at the Auditing and Assurance Standards Board website at: www.auasb.gov.au/auditors_responsibilities/ar4.pdf. The description forms part of my auditor's report.

The scope of my audit does not include, nor provide assurance:

- that the Office carried out its activities effectively, efficiently and economically
- about the assumptions used in formulating the budget figures disclosed in the financial statements
- about the security and controls over the electronic publication of the audited financial statements on any website where they may be presented
- about any other information which may have been hyperlinked to/from the financial statements.



Nirupama Mani
Director, Financial Audit

Delegate of the Auditor-General for New South Wales

21 September 2023
SYDNEY

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19 September 2023

Statement by the Ombudsman

Pursuant to section 7.6(4) of the *Government Sector Finance Act 2018* ('the Act') and to the best of my knowledge and belief I state that:

- these financial statements have been prepared in accordance with the provisions of the Australian Accounting Standards (which include Australian Accounting Interpretations), the requirements of the Act and Treasurer's Directions issued under the Act,
- these financial statements present fairly the Ombudsman's Office financial position, financial performance and cash flows, and
- there are no circumstances which would render any particulars included in the financial statements to be misleading or inaccurate.

A handwritten signature in black ink, appearing to read "Paul Miller". The signature is written in a cursive style.

Paul Miller
NSW Ombudsman

Ombudsman's Office

Statement of Comprehensive Income for the year ended 30 June 2023

	Notes	Budget 2023 \$'000	Actual 2023 \$'000	Actual 2022 \$'000
Continuing operations				
Expenses excluding losses				
Employee-related expenses	2(a)	29,889	23,408	17,240
Operating expenses	2(b)	11,143	11,313	5,451
Depreciation and amortisation	2(c)	3,389	3,129	3,150
Finance costs	2(d)	128	99	178
Total expenses excluding losses		44,549	37,949	26,019
Revenue				
Appropriations	3(a)	43,869	38,781	25,379
Sale of goods and services from contracts with customers	3(b)	584	687	628
Grants and other contributions	3(c)	-	-	1,243
Acceptance by the Crown of employee benefits and other liabilities	3(d)	1,008	676	(64)
Other income	3(e)	-	71	1
Total revenue		45,461	40,215	27,187
Operating result		912	2,266	1,168
Gains / (losses) on disposal	4	-	16	(14)
Other losses	5	-	-	(45)
Net Result		912	2,282	1,109
Other comprehensive income				
Total other comprehensive income		-	-	-
TOTAL COMPREHENSIVE INCOME		912	2,282	1,109

The accompanying notes form part of these financial statements.

Ombudsman's Office

Statement of Financial Position as at 30 June 2023

	Notes	Budget 2023 \$'000	Actual 2023 \$'000	Actual 2022 \$'000
ASSETS				
Current Assets				
Cash and cash equivalents	7	1,632	4,910	2,693
Receivables	8	907	1,236	899
Total Current Assets		2,539	6,146	3,592
Non-Current Assets				
Property, plant and equipment	9	1,109	1,549	1,792
Right-of-use assets	10	2,841	2,816	4,928
Intangible assets	11	2,449	1,394	950
Total Non-Current Assets		6,399	5,759	7,670
Total Assets		8,938	11,905	11,262
LIABILITIES				
Current Liabilities				
Payables	12	1,261	1,709	884
Contract liabilities	13	-	72	140
Borrowings	14	3,148	3,148	2,938
Provisions	15	1,790	2,493	1,942
Total Current Liabilities		6,199	7,422	5,904
Non-Current Liabilities				
Borrowings	14	807	806	3,955
Provisions	15	1,035	1,011	1,019
Total Non-Current Liabilities		1,842	1,817	4,974
Total Liabilities		8,041	9,239	10,878
Net Assets / (Liabilities)		897	2,666	384
EQUITY				
Accumulated funds		897	2,666	384
Total Equity		897	2,666	384

The accompanying notes form part of these financial statements.

Ombudsman's Office

Statement of Changes in Equity for the year ended 30 June 2023

	Accumulated Funds \$'000
	Notes
Balance at 1 July 2022	384
Net result for the year	2,282
Total comprehensive income for the year	2,666
Balance at 30 June 2023	2,666
Balance at 1 July 2021	(725)
Net result for the year	1,109
Total comprehensive income for the year	1,109
Balance at 30 June 2022	384

The accompanying notes form part of these financial statements.

Ombudsman's Office

Statement of Cash Flows for the year ended 30 June 2023

	Notes	Budget 2023 \$'000	Actual 2023 \$'000	Actual 2022 \$'000
CASH FLOWS FROM OPERATING ACTIVITIES				
Payments				
Employee related		(28,881)	(21,864)	(17,242)
Suppliers for goods and services		(11,148)	(12,763)	(5,952)
Finance costs		(111)	(111)	(168)
Total Payments		(40,140)	(34,738)	(23,362)
Receipts				
Appropriations (excluding equity appropriations)		43,869	38,781	25,379
Sale of goods and services		584	687	628
Grants and other contributions		-	-	1,243
Other		-	1,628	1,023
Total Receipts		44,453	41,096	28,273
NET CASH FLOWS FROM OPERATING ACTIVITIES	19	4,313	6,358	4,911
CASH FLOWS FROM INVESTING ACTIVITIES				
Proceeds from sale of property, plant and equipment		-	19	-
Purchase of property, plant and equipment		(210)	(493)	(324)
Purchase of intangible assets		(1,930)	(728)	(303)
NET CASH FLOWS FROM INVESTING ACTIVITIES		(2,140)	(1,202)	(627)
CASH FLOWS FROM FINANCING ACTIVITIES				
Payment of principal portion of lease liabilities		(2,939)	(2,939)	(2,739)
NET CASH FLOWS FROM FINANCING ACTIVITIES		(2,939)	(2,939)	(2,739)
NET INCREASE/(DECREASE) IN CASH AND CASH EQUIVALENTS				
		(766)	2,217	1,545
Opening cash and cash equivalents		2,398	2,693	1,148
CLOSING CASH AND CASH EQUIVALENTS	7	1,632	4,910	2,693

The accompanying notes form part of these financial statements.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2023

1 Statement of Significant Accounting Policies

(a) Reporting entity

The Ombudsman's Office (the Office) is a NSW government entity and is controlled by the State of New South Wales, which is the ultimate parent. Our role is to make sure that public and private sector agencies and employees within our jurisdiction fulfill their functions properly. We help agencies to be aware of their responsibilities to the public, to act reasonably and to comply with the law and best practice in administration. The Office is independent of the government agencies and non-government organisations that we oversee. The Office is a not-for-profit entity (as profit is not its principal objective) and it has no major cash generating units.

The financial statements for the year ended 30 June 2023 have been authorised for issue by the Ombudsman on 19 September 2023.

(b) Basis of preparation

The Office's financial statements are general purpose financial statements, which have been prepared on an accruals basis in accordance with:

- applicable Australian Accounting Standards (AAS) (which include Australian Accounting Interpretations);
- the requirements of the *Government Sector Finance Act 2018* (GSF Act) and
- Treasurer's Directions issued under the GSF Act.

Property, plant and equipment are measured using the fair value basis. Other financial statements items are prepared in accordance with the historical cost convention except where specified otherwise.

Judgements, key assumptions and estimations that management has made are disclosed in the relevant notes to the financial statements.

All amounts are rounded to the nearest one thousand dollars and are expressed in Australian currency, which is the Office's presentation and functional currency.

(c) Statement of compliance

The financial statements and notes comply with Australian Accounting Standards, which include Australian Accounting Interpretations.

(d) Accounting for the Goods and Services Tax

Income, expenses and assets are recognised net of the amount of goods and services tax (GST), except that the:

- amount of GST incurred by the Office as a purchaser that is not recoverable from the Australian Taxation Office (ATO) is recognised as part of an asset's cost of acquisition or as part of an item of expense, and
- receivables and payables are stated with the amount of GST included.

Cash flows are included in the Statement of Cash Flows on a gross basis. However, the GST components of cash flows arising from investing and financing activities which are recoverable from, or payable to, the ATO are classified as operating cash flows.

(e) Comparative information

Except when an AAS permits or requires otherwise, comparative information is presented in respect of the previous period for all amounts reported in the financial statements.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2023

(f) Changes in accounting policies, including new or revised AAS

(i) Effective for the first time in FY2022-23

The accounting policies applied in FY2022-23 are consistent with those of the previous financial year.

(ii) Issued but not yet effective

NSW public sector entities are not permitted to early adopt new AAS, unless Treasury determines otherwise.

The following new AAS have not been applied and are not yet effective.

- AASB 17 *Insurance Contracts*
- AASB 2020-1 *Amendments to Australian Accounting Standards – Classification of Liabilities as Current or Non-current*
- AASB 2021-2 *Amendments to Australian Accounting Standards – Disclosure of Accounting Policies and Definition of Accounting Estimates*
- AASB 2021-5 *Amendments to Australian Accounting Standards – Deferred Tax related to Assets and Liabilities arising from a Single Transaction*
- AASB 2021-6 *Amendments to Australian Accounting Standards – Disclosure of Accounting Policies: Tier 2 and Other Australian Accounting Standards*
- AASB 2021-7b *Amendments to Australian Accounting Standards – Effective Date of Amendments to AASB 10 and AASB 128 and Editorial Corrections*
- AASB 2021-7c *Amendments to Australian Accounting Standards – Effective Date of Amendments to AASB 10 and AASB 128 and Editorial Corrections*
- AASB 2022-1 *Amendments to Australian Accounting Standards – Initial Application of AASB 17 and AASB 9 – Comparative Information*
- AASB 2022-5 *Amendments to Australian Accounting Standards – Lease Liability in a Sale and Leaseback*
- AASB 2022-6 *Amendments to Australian Accounting Standards – Non-current Liabilities with Covenants*
- AASB 2022-7 *Editorial Corrections to Australian Accounting Standards and Repeal of Superseded and Redundant Standards*
- AASB 2022-8 *Amendments to Australian Accounting Standards – Insurance Contracts: Consequential Amendments*
- AASB 2022-9 *Amendments to Australian Accounting Standards – Insurance Contracts in the Public Sector*
- AASB 2022-10 *Amendments to Australian Accounting Standards – Fair Value Measurement of Non-Financial Assets of Not-for-Profit Public Sector Entities*

These Standards are unlikely to have an impact on the Office's financial statements in the period of initial application.

(g) Going concern

The Office is a 'going concern' public sector entity. The Office receives a Parliamentary appropriation as outlined in the NSW Budget Papers for FY2022-23 on an 'as needs' basis from the Crown.

(h) Impact of COVID-19 on Financial Reporting for FY2022-23

The Office has applied COVID-19 accounting guidance provided by NSW Treasury and concluded that the Office's financial statements for the year ended 30 June 2023 have not been impacted by COVID-19.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2023

	2023	2022
	\$'000	\$'000
2 Expenses Excluding Losses		
(a) Employee related expenses		
Salaries and wages (including annual leave)^ *	19,592	14,950
Superannuation – defined benefit plans	57	63
Superannuation – defined contribution plans	1,851	1,309
Long service leave	616	(130)
Workers' compensation insurance	86	44
Payroll tax and fringe benefit tax	1,206	791
Redundancy	-	213
	23,408	17,240

^ During 2023, no employee related costs have been capitalised in intangible assets, and therefore excluded from the above (2022: \$30,000).

	2023	2022
	\$'000	\$'000
(b) Operating expenses include the following:		
Auditor's remuneration – audit of the financial statements	51	54
Finance lease outgoings	75	51
Insurance	65	60
Fees	760	587
Telephones	118	72
Stores	31	19
Training	502	220
Printing	26	7
Travel	73	23
Consultants	1,150	541
Contractors	4,899	1,956
Maintenance – non-employee related*	2,302	1,213
Other	1,261	648
	11,313	5,451

* Reconciliation - Total maintenance expense

Maintenance expense - contracted labour and other (non-employee related),

as above

Employee related maintenance expense included in Note 2(a)

Total maintenance expenses included in Notes 2(a) and 2(b)

2,302

1,152

89

86

2,391

1,238

Reclassification of operating expenses

The Office has reassessed the nature of consultant expenses based on guidance provided in TPG 23-03 Financial Reporting Code for NSW General Government Sector Entities, and the definition provided by the NSW Procurement Board. Based on the review, the Office has adjusted 2022 comparative information to reclassify certain expenses that were classified as consultant expenses. This reclassification has led to a decrease of \$418,000 in consultant expenses, offset by an increase of \$344,000 in contractor expenses, \$61,000 in maintenance expenses and \$13,000 in fees. The reclassification has no impact on the total operating expenses.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2023

Recognition and Measurement

Maintenance expense

Day-to-day servicing costs or maintenance are charged as expenses as incurred, except where they relate to the replacement or an enhancement of a part or component of an asset, in which case the costs are capitalised and depreciated.

Insurance

The Office's insurance activities are conducted through the NSW Treasury Managed Fund Scheme of self-insurance for Government entities. The expense (premium) is determined by the Fund Manager based on past claims experience.

Lease expense

The Office recognises the lease payments associated with the following types of leases as an expense on a straight-line basis:

- Leases that meet the definition of short-term, ie where the lease term at commencement of the lease is 12 months or less. This excludes leases with a purchase option.
- Leases of assets that are valued at \$10,000 or under when new.

Variable lease payments not included in the measurement of the lease liability (ie variable lease payments that do not depend on an index or a rate, initially measured using the index or rate as at the commencement date). These payments are recognised in the period in which the event or condition that triggers those payments occurs.

	2023	2022
	\$'000	\$'000
(c) Depreciation and amortisation expense		
Depreciation		
Right-of-use assets	2,112	2,131
Leasehold improvements	401	404
Plant and equipment	299	296
Furniture and fittings	33	24
Total depreciation expense	2,845	2,855
Amortisation		
Software	284	295
Total amortisation expense	284	295
Total depreciation and amortisation expense	3,129	3,150

Refer to Note 9, 10, and 11 for recognition and measurement policies on depreciation and amortisation.

	2023	2022
	\$'000	\$'000
(d) Finance costs		
Interest expense from lease liabilities	111	168
Unwinding of discount and effect of changes in discount rate on provisions	(12)	10
	99	178

Recognition and Measurement

Finance costs consist of interest and other costs incurred in connection with the borrowing of funds. Borrowing costs are recognised as expenses in the period in which they are incurred, in accordance with Treasury's Mandate to not-for-profit NSW General Government Sector entities.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2023

3 Revenue

Recognition and Measurement

Income is recognised in accordance with the requirements of AASB 15 *Revenue from Contracts with Customers* or AASB 1058 *Income of Not-for-Profit Entities*, dependent on whether there is a contract with a customer as defined by AASB 15 *Revenue from Contracts with Customers*.

(a) Appropriations and transfers to the Crown

Summary of Compliance	2023 \$'000	2022 \$'000
Amount appropriated per Appropriation Act	43,869	25,886
Variations made to the appropriations during the financial year		
- Government's response to COVID crisis (per Section 37 of the Appropriation Act)	-	202
Total spending authority from parliamentary appropriations, other than deemed appropriations	43,869	26,088
Add:		
Deemed appropriations earned during the year	2,334	2,894
Deemed appropriations balance brought forward from prior years	3,402	1,148
Total spending authority from parliamentary appropriations	49,605	30,130
Less: total expenditure from parliamentary appropriations	(38,898)	(26,728)
Variance	10,707	3,402
Less:		
The spending authority from appropriations lapsed at 30 June	(4,971)	-
Deemed appropriations balance carried forward to the following years	5,736	3,402

Notes:

1. The summary of compliance includes deemed appropriations. It is based on the assumption that annual appropriations monies are spent first (except where otherwise identified or prescribed).
2. 'Expenditure' refers to cash payments. The term 'expenditure' has been used for payments for consistency with AASB 1058 *Income of Not-for-Profit Entities*.
3. Deemed appropriations is a legal concept under the GSF Act that does not have a corresponding financial statement line item. Instead, deemed appropriations may come from various sources, such as sale of goods and services, and the corresponding revenue is disclosed in the relevant sections of these items in the financial statements.

Recognition and Measurement

Parliamentary appropriations other than deemed appropriations

Income from appropriations, other than deemed appropriations (of which the accounting treatment is based on the underlying transaction), does not contain enforceable and sufficiently specific performance obligations as defined by AASB 15. Therefore, appropriations (other than deemed appropriations) are recognised as income when the Office obtains control over the assets comprising the appropriations. Control over appropriations is normally obtained upon the receipt of cash.

The *Appropriation Act 2022* (Appropriations Act) appropriates the sum of \$43.9 million to the Premier out of the Consolidated Fund for the services of the Office for the year 2022–23.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2023

The *Treasury and Energy Legislation Amendment Act 2022* made some amendments to sections 4.7 and 4.9 of the GSF Act. These amendments commenced on 14 November 2022 and are applied retrospectively. As a result, the lead Minister for the Office, being the Premier, is taken to have been given an appropriation out of the Consolidated Fund under the authority section 4.7 of the GSF Act, at the time the Office receives or recovers any deemed appropriation money, for an amount equivalent to the money that is received or recovered by the Office. These deemed appropriations are taken to have been given for the services of the Office.

In addition, government money that the Office receives or recovers, from another GSF agency, of a kind prescribed by the GSF regulations that forms part of the Consolidated Fund, is now capable of giving rise to deemed appropriations.

On 16 June 2023, the GSF Amendment (Deemed Appropriations) Regulation 2023 was approved to bring the GSF regulations in line with the above deemed appropriation amendments to the GSF Act.

The spending authority of the Premier for the services of the special office, from the Appropriations Act and deemed appropriation money, has been delegated/sub-delegated to officers of the Office.

The summary of compliance has been prepared by aggregating the spending authorities for the services of the Office. It reflects the status at the point in time this disclosure statement is being made.

The Office receives its funding under appropriations from the Consolidated Fund. Appropriations for each financial year are set out in the Appropriation Bill that is prepared and tabled for that year. The State Budget and related 2023-24 Appropriation Bill has been delayed until September 2023. However, pursuant to section 4.10 of the GSF Act, the Treasurer has authorised Ministers to spend specified amounts from Consolidated Fund. This authorisation is current from 1 July 2023 until the earlier of 30 September 2023 or enactment of the 2023-24 Appropriation Act.

	2023 \$'000	2022 \$'000
(b) Sale of goods and services from contracts with customers		
Rendering of services	687	628
	<u>687</u>	<u>628</u>

Recognition and Measurement

Revenue from rendering of services such as conducting training programs, is recognised when the Office satisfies the performance obligation by delivering training workshops. The revenue is measured at the transaction price agreed under the contract.

	2023 \$'000	2022 \$'000
(c) Grants and other contributions		
Digital Restart Fund	-	1,030
Crown funded redundancies	-	213
	<u>-</u>	<u>1,243</u>

Recognition and Measurement

Revenue from grants with sufficiently specific performance obligations are recognised as and when the Office satisfies a performance obligation by transferring the promised services.

Income from grants without sufficiently specific performance obligations are recognised when the Office obtains control over the granted assets (e.g. cash).

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2023

(d) Acceptance by the Crown of employee benefits and other liabilities

The following liabilities and / or expenses have been assumed by the Crown:

	2023	2022
	\$'000	\$'000
Superannuation - defined benefit	57	63
Long service leave provision	616	(130)
Payroll tax on superannuation	3	3
	676	(64)

(e) Other income

	2023	2022
	\$'000	\$'000
Profit share from the 13 th National Investigations Symposium conference	70	-
Workers Compensation Performance Reward	1	1
	71	1

4 Gains / (losses) on Disposal

	2023	2022
	\$'000	\$'000
Gains / (losses) on disposal of plant and equipment	16	(14)
	16	(14)

5 Other Losses

	2023	2022
	\$'000	\$'000
Impairment loss – Right-of-use assets	-	(45)
	-	(45)

Recognition and Measurement

Impairment losses on non-financial assets

Impairment losses may arise on non-financial assets held by the Office from time to time. Accounting for impairment losses is dependent upon the individual asset (or group of assets) subject to impairment.

Accounting Policies and events giving rise to impairment losses are disclosed in the following notes:

- Trade receivables and contract assets – Note 8
- Property, plant and equipment – Note 9
- Leases – Note 10
- Intangible assets – Note 11

6 State Outcome Group

The Ombudsman's Office operates under one outcome group - the independent resolution, investigation or oversight of complaints and notification made by the public about agencies within the jurisdiction of the Ombudsman and the scrutiny of complaint handling and other systems of those agencies.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2023

	2023 \$'000	2022 \$'000
7 Current Assets - Cash and Cash Equivalents		
Cash at bank and on hand	4,910	2,693
	4,910	2,693

For the purposes of the Statement of Cash Flows, cash and cash equivalents include cash at bank and on hand.

Cash and cash equivalents (per Statement of Financial Position)	4,910	2,693
Closing cash and cash equivalents (per Statement of Cash Flows)	4,910	2,693

Refer Note 20 for details regarding credit risk and market risk arising from financial instruments.

	2023 \$'000	2022 \$'000
8 Current Assets - Receivables		
Trade receivables from contracts with customers	62	182
GST receivable	274	123
Other receivables	126	89
	462	394
Less Allowance for expected credit losses		
- Trade receivables from contracts with customers	-	-
Total expected credit losses	-	-
Prepayments	774	505
	1,236	899

Refer Note 20 for details regarding credit risk of trade receivables that are neither past due nor impaired.

Recognition and Measurement

The Office recognises a financial asset or a financial liability when, and only when, it becomes a party to the contractual provisions of the instrument. To determine when the Office becomes a party to the contractual provisions of the instrument, the Office considers:

- Whether the Office has a legal right to receive cash (financial asset) or a legal obligation to pay cash (financial liability); or
- Whether at least one of the parties has performed under the agreement.

All 'regular way' purchases or sales of financial assets are recognised and derecognised on a trade date basis. Regular way purchases or sales are purchases or sales of financial assets that require delivery of assets within the time frame established by regulation or convention in the marketplace.

Receivables are initially recognised at fair value plus any directly attributable transaction costs. Trade receivables that do not contain a significant financing component are measured at the transaction price.

Subsequent measurement

The Office holds receivables with the objective to collect the contractual cash flows and therefore measures them at amortised cost using the effective interest method, less any impairment. Changes are recognised in the net result for the year when impaired, derecognised or through the amortisation process.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2023

	Leasehold Improvements \$'000	Plant and Equipment \$'000	Furniture and Fittings \$'000	Total \$'000
9 Property, Plant and Equipment				
At 1 July 2021 - fair value				
Gross carrying amount	5,463	1,798	363	7,624
Accumulated depreciation	(4,136)	(1,063)	(232)	(5,431)
Net carrying amount	1,327	735	131	2,193
Year ended 30 June 2022				
Net carrying amount at beginning of year	1,327	735	131	2,193
Purchases of assets	-	305	19	324
Disposals	(1)	-	-	(1)
Depreciation expense	(404)	(296)	(24)	(724)
Net carrying amount at end of year	922	744	126	1,792
At 1 July 2022 - fair value				
Gross carrying amount	5,144	1,911	382	7,437
Accumulated depreciation	(4,222)	(1,167)	(256)	(5,645)
Net carrying amount	922	744	126	1,792
Year ended 30 June 2023				
Net carrying amount at beginning of year	922	744	126	1,792
Purchases of assets	46	270	177	493
Disposals	-	(3)	-	(3)
Depreciation expense	(401)	(299)	(33)	(733)
Net carrying amount at end of year	567	712	270	1,549
At 30 June 2023 - fair value				
Gross carrying amount	5,190	1,724	522	7,436
Accumulated depreciation	(4,623)	(1,012)	(252)	(5,887)
Net carrying amount	567	712	270	1,549

Recognition and Measurement

Acquisition of property, plant and equipment

Property, plant and equipment are initially measured at cost and subsequently revalued at fair value less accumulated depreciation and impairment. Cost is the amount of cash or cash equivalents paid or the fair value of the other consideration given to acquire the asset at the time of its acquisition or construction or, where applicable, the amount attributed to that asset when initially recognised in accordance with the requirements of other AAS. Fair value is the price that would be received to sell an asset in an orderly transaction between market participants at measurement date.

Capitalisation thresholds

Property, plant and equipment and intangible assets costing \$5,000 and above individually are capitalised. All items that form part of our IT network, such as software and hardware, are capitalised regardless of the cost.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2023

Restoration costs

The present value of the expected cost for the restoration or cost of dismantling of an asset after its use is included in the cost of the respective asset if the recognition criteria for a provision are met.

Depreciation of property, plant and equipment

Depreciation is provided for on a straight-line basis for all depreciable assets so as to write off the depreciable amount of each asset as it is consumed over its useful life to the Office.

All material identifiable components of assets are depreciated separately over their useful lives.

Depreciation rates used:

- Leasehold improvements Useful life of 10 years or to the end of the lease, if shorter.
- Plant and equipment 20%-25% (2022: 20%-25%)
- Furniture & fittings 10% (2022: 10%)

Right-of-Use Assets acquired by lessees

The Office has elected to present right-of-use assets separately in the Statement of Financial Position.

Further information on leases is contained at Note 10.

Revaluation of property, plant and equipment

Physical non-current assets are valued in accordance with the 'Valuation of Physical Non-Current Assets at Fair Value' Policy and Guidelines Paper (TPP21-09) and Treasurer's Direction *Valuation of Physical Non-Current Assets at Fair Value* (TD21-05). TD21-05 and TPP21-09 adopt fair value in accordance with AASB 13, AASB 116 and AASB 140 *Investment Property*.

Non-specialised assets with short useful lives are measured at depreciated historical cost, which for these assets approximates fair value. The Office has assessed that any difference between fair value and depreciated historical cost is unlikely to be material.

The residual values, useful lives and methods of depreciation of property, plant and equipment are reviewed at each financial year end.

Impairment of property, plant and equipment

As a not-for-profit entity with no major cash generating units, impairment under AASB 136 *Impairment of Assets* is unlikely to arise. Since property, plant and equipment is carried at fair value or an amount that approximates fair value, impairment can only arise in the rare circumstances where the costs of disposal are material.

The Office assesses, at each reporting date, whether there is an indication that an asset may be impaired. If any indication exists, or when annual impairment testing for an asset is required, the Office estimates the asset's recoverable amount. When the carrying amount of an asset exceeds its recoverable amount, the asset is considered impaired and is written down to its recoverable amount.

As a not-for-profit entity, an impairment loss is recognised in the net result to the extent the impairment loss exceeds the amount in the revaluation surplus for the class of asset.

After an impairment loss has been recognised, it is reversed only if there has been a change in the assumptions used to determine the asset's recoverable amount. The reversal is limited so that the carrying amount of the asset does not exceed its recoverable amount, nor exceed the carrying amount that would have been determined, net of depreciation, had no impairment loss been recognised for the asset in prior years. The reversal is recognised in other comprehensive income and is treated as a revaluation increase, except to the extent that an impairment loss on the same class of asset was previously recognised in net result, then the reversal recognised in net result.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2023

10 Leases

Entity as a lessee

The Office leases office building space and the lease contracts are typically made for fixed periods of 5 years but may have extension options. Lease terms are negotiated on an individual basis and contain a wide range of different terms and conditions. The lease agreements do not impose any covenants, but leased assets may not be used as security for borrowing purposes. The Office does not provide residual value guarantees in relation to leases.

AASB 16 *Leases* (AASB 16) requires a lessee to recognise a right-of-use asset and a corresponding lease liability for most leases.

The Office has elected to recognise payments for short-term leases and low value leases as expenses on a straight-line basis, instead of recognising a right-of-use asset and lease liability. Short-term leases are leases with a lease term of 12 months or less. Low value assets are assets with a fair value of \$10,000 or less.

Right-of-use assets under leases

The following table presents right-of-use assets that do not meet the definition of investment property.

	Buildings \$'000
Balance at 1 July 2022	4,928
Depreciation expense	(2,112)
Impairment loss	-
Balance at 30 June 2023	2,816
Balance at 1 July 2021	7,104
Depreciation expense	(2,131)
Impairment loss	(45)
Balance at 30 June 2022	4,928

Lease liabilities

	2023 \$'000	2022 \$'000
The following table presents liabilities under leases:		
Balance at 1 July	6,893	9,632
Interest expenses	111	168
Payments	(3,050)	(2,907)
Balance at 30 June	3,954	6,893

The following amounts were recognised in the Statement of Comprehensive Income during the period in respect of leases where the entity is the lessee:

	2023 \$'000	2022 \$'000
Depreciation expense of right-of-use assets	2,112	2,131
Interest expense on lease liabilities	111	168
Impairment loss	-	45
Total amount recognised in the Statement of Comprehensive Income	2,223	2,344

The total cash outflows for leases of \$3.1 million in FY2022-23 (FY2021-22: \$2.9 million).

Recognition and Measurement

The Office assesses at contract inception whether a contract is, or contains, a lease. That is, if the contract conveys the right to control the use of an identified asset for a period of time in exchange for consideration.

The Office recognises lease liabilities to make lease payments and right-of-use assets representing the right to use the underlying assets, except for short-term leases and leases of low-value assets.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2023

Right-of-use assets

The Office recognises right-of-use assets at the commencement date of the lease (i.e. the date the underlying asset is available for use). Right-of-use assets are initially measured at the amount of initial measurement of the lease liability, adjusted by any lease payments made at or before the commencement date and lease incentives, any initial direct costs incurred, and estimated costs of dismantling and removing the asset or restoring the site.

The right-of-use assets are subsequently measured at cost. They are depreciated on a straight-line basis over the shorter of the lease term and the estimated useful lives of the assets, as follows:

- Buildings 5 years and 3 months

The right-of-use assets are also subject to impairment. The Office assesses, at each reporting date, whether there is an indication that an asset may be impaired. If any indication exists, or when annual impairment testing for an asset is required, the Office estimates the asset's recoverable amount. When the carrying amount of an asset exceeds its recoverable amount, the asset is considered impaired and is written down to its recoverable amount. After an impairment loss has been recognised, it is reversed only if there has been a change in the assumptions used to determine the asset's recoverable amount. The reversal is limited so that the carrying amount of the asset does not exceed its recoverable amount, nor exceed the carrying amount that would have been determined, net of depreciation, had no impairment loss been recognised for the asset in prior years. Such reversal is recognised in the net result.

Lease liabilities

At the commencement date of the lease, the Office recognises lease liabilities measured at the present value of lease payments to be made over the lease term. Lease payments include fixed payments (including in substance fixed payments) less any lease incentives receivable.

The lease payments are discounted using Treasury Corporation rate. The Office is an agency in the General Government sector that does not borrow funds in the market. Instead we receive appropriations from the Crown and where the Crown needs additional funding, Treasury Corporation will go to market to obtain these funds. Therefore, we use Treasury Corporation rates as our incremental borrowing rates as instructed by Treasury.

After the commencement date, the amount of lease liabilities is increased to reflect the accretion of interest and reduced for the lease payments made. In addition, the carrying amount of lease liabilities is remeasured if there is a modification, a change in the lease term, a change in the lease payments (e.g., changes to future payments resulting from a change in an index or rate used to determine such lease payments) or a change in the assessment of an option to purchase the underlying asset.

The Office's lease liabilities are included in borrowings.

Short-term leases and leases of low-value assets

The Office applies the short-term lease recognition exemption to its short-term leases of machinery and equipment (i.e., those leases that have a lease term of 12 months or less from the commencement date and do not contain a purchase option). It also applies the lease of low-value assets recognition exemption to leases of office equipment that are considered to be low value. Lease payments on short-term leases and leases of low value assets are recognised as expense on a straight-line basis over the lease term.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2023

11 Intangible Assets

	Software \$'000
At 1 July 2021	
Gross carrying amount	2,748
Accumulated amortisation	<u>(1,825)</u>
Net carrying amount	<u>923</u>
Year ended 30 June 2022	
Net carrying amount at beginning of year	923
Additions	
- Internally developed	30
- Externally acquired	304
Disposals	(12)
Amortisation	<u>(295)</u>
Net carrying amount at end of year	<u>950</u>
At 1 July 2022	
Gross carrying amount	2,581
Accumulated amortisation	<u>(1,631)</u>
Net carrying amount	<u>950</u>
Year ended 30 June 2023	
Net carrying amount at beginning of year	950
Additions	
- Internally developed	-
- Externally acquired	728
Disposals	-
Amortisation	<u>(284)</u>
Net carrying amount at end of year	<u>1,394</u>
At 30 June 2023	
Gross carrying amount	3,233
Accumulated amortisation	<u>(1,839)</u>
Net carrying amount	<u>1,394</u>

Recognition and Measurement

The Office recognises intangible assets only if it is probable that future economic benefits will flow to the Office and the cost of the asset can be measured reliably. Intangible assets are measured initially at cost. Where an asset is acquired at no or nominal cost, the cost is its fair value as at the date of acquisition. Following initial recognition, intangible assets are subsequently measured at fair value only if there is an active market. As there is no active market for our intangible assets, they are carried at cost less any accumulated amortisation and impairment losses.

The useful lives of intangible assets are assessed to be finite. The Office's intangible assets are amortised using the straight-line method over a period of five to ten years. The amortisation rates used for computer software are 10% to 20% (2022: 10% to 20%). The amortisation period and the amortisation method for an intangible asset with a finite useful life are reviewed at least at the end of each reporting period.

Intangible assets are tested for impairment where an indicator of impairment exists. If the recoverable amount is less than its carrying amount, the carrying amount is reduced to recoverable amount and the reduction is recognised as an impairment loss.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2023

12 Current Liabilities - Payables	2023 \$'000	2022 \$'000
Accrued salaries, wages and on-costs	648	727
Creditors	1,061	157
	<u>1,709</u>	<u>884</u>

Refer Note 20 for details regarding liquidity risk, including a maturity analysis of the above payables.

Recognition and Measurement

Payables represent liabilities for goods and services provided to the Office and other amounts. Short-term payables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

Payables are financial liabilities at amortised cost, initially measured at fair value, net of directly attributable transaction costs. These are subsequently measured at amortised cost using the effective interest method. Gains and losses are recognised in net result when the liabilities are derecognised as well as through the amortisation process.

13 Contract Assets and Liabilities	2023 \$'000	2022 \$'000
Contract liabilities - current	72	140
Contract receivables (included in Note 8)	62	182

Recognition and Measurement

Contract liabilities include consideration received in advance from customers in respect of training programs. The balance of contract liabilities at 30 June 2023 was the result of payments received in advance, and it is the Office's obligation to deliver training programs to a customer for which the Office has received consideration. The initial liability is measured at the amount of consideration received from the customer.

Revenue recognised that was included in the contract liability balance at the beginning of the year	127	68
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14 Current / Non-Current Liabilities - Borrowings	2023 \$'000	2022 \$'000
Lease liabilities (see Note 10)		
- Current	3,148	2,938
- Non-current	806	3,955
	<u>3,954</u>	<u>6,893</u>

Refer Note 20 for details regarding liquidity risk, including a maturity analysis of the above borrowings.

Recognition and Measurement

Borrowing represents interest bearing liabilities in relation to lease liabilities.

Borrowings classified as financial liabilities at amortised cost are initially measured at fair value, net of directly attributable transaction costs. These are subsequently measured at amortised cost using the effective interest method. Gains and losses are recognised in net result when the liabilities are derecognised as well as through the amortisation process.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2023

15 Current / Non-Current Liabilities - Provisions

	2023	2022
	\$'000	\$'000
Current provisions		
Annual leave	1,476	1,108
Annual leave loading	255	182
Provision for related on-costs on annual leave	239	170
Provision for related on-costs on long service leave	523	482
Total current provisions	2,493	1,942
Non-current provisions		
Provision for related on-costs on long service leave	52	48
Restoration costs	959	971
Total non-current provisions	1,011	1,019
Aggregate employee benefits and related on-costs		
Provisions - current	2,493	1,942
Provisions - non-current	52	48
Accrued salaries, wages and on-costs (see Note 12)	648	727
	3,193	2,717

The value of annual leave and associated on-costs expected to be taken within 12 months is \$2.0 million (2022: \$1.5 million). The Office has a proactive annual leave management program, whereby all staff are encouraged to take their full entitlement each year. The value of long service leave on-costs expected to be settled within 12 months is \$37,000 (2022: \$36,000) and \$538,000 (2022: \$494,000) after 12 months.

	2023	2022
	\$'000	\$'000
Movement in restoration costs		
Carrying amount at beginning of year	971	961
Unwinding / change in the discount rate	(12)	10
Carrying amount at end of year	959	971

The restoration costs are non-current liabilities and were recognised for the estimate of future payments for restoration of the office fit out upon termination of the current accommodation lease. The lease was renewed for five years, commencing in October 2019.

Recognition and Measurement

Salaries and wages, annual leave and sick leave

Salaries and wages (including non-monetary benefits) and paid sick leave that are expected to be settled wholly within 12 months after the end of the period in which the employees render the service are recognised and measured at the undiscounted amounts of the benefits.

Annual leave that is not expected to be settled wholly before 12 months after the end of the annual reporting period in which the employees render the related service is required to be measured at present value in accordance with AASB 119 *Employee Benefits* (although short-cut methods are permitted).

Actuarial advice obtained by NSW Treasury has confirmed that using the nominal annual leave balance plus the annual leave entitlements accrued while taking annual leave (calculated using 8.4% of the nominal value of annual leave (2022: 8.4%)) can be used to approximate the present value of the annual leave liability. The Office has assessed the actuarial advice based on our circumstances and has determined that the effect of discounting is immaterial to annual leave. All annual leave is classified as a current liability even where the Office does not expect to settle the liability within 12 months as the Office does not have an unconditional right to defer settlement.

Unused non-vesting sick leave does not give rise to a liability as it is not considered probable that sick leave taken in the future will be greater than the benefits accrued in the future.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2023

Long service leave and superannuation

The Office's liabilities for long service leave and defined benefit superannuation are assumed by the Crown. The Office accounts for the liability as having been extinguished, resulting in the amount assumed being shown as part of the non-monetary revenue item described as 'Acceptance by the Crown of employee benefits and other liabilities'.

Long service leave is measured at the present value of expected future payments to be made in respect of services provided up to the reporting date. Consideration is given to certain factors based on actuarial review, including expected future wage and salary levels, experience of employee departures, and periods of service. Expected future payments are discounted using Commonwealth government bond rate at the reporting date.

The superannuation expense for the financial year is determined by using the formulae specified in the Treasurer's Directions. The expense for certain superannuation schemes (i.e. Basic Benefit and First State Super) is calculated as a percentage of the employee's salary. For other superannuation schemes (i.e. State Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employee's superannuation contributions.

Consequential on-costs

Consequential costs to employment are recognised as liabilities and expenses where the employee benefits to which they relate have been recognised. This includes outstanding amounts of payroll tax, workers' compensation insurance premiums and fringe benefits tax.

Other provisions

Provisions are recognised when: the Office has a present legal or constructive obligation as a result of a past event; it is probable that an outflow of resources will be required to settle the obligation; and a reliable estimate can be made of the amount of the obligation.

If the effect of the time value of money is material, provisions are discounted at 3.70% (2022: 1.57%), which is a pre-tax rate that reflects the current market assessments of the time value of money and the risks specific to the liability. When discounting is used, the increase in the provision due to the passage of time (i.e. unwinding of discount rate) is recognised as a finance cost.

16 Commitments

Capital commitments

Aggregate capital expenditure for the acquisition of computer software and office equipment contracted for at balance date and not provided for:

	2023 \$'000	2022 \$'000
Within one year	569	13
Later than one year and not later than five years	-	-
Later than five years	-	-
Total (including GST)	<u>569</u>	<u>13</u>

17 Contingent Liabilities and Contingent Assets

There are no contingent assets or liabilities for the year ended 30 June 2023 (2022: nil).

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2023

18 Budget Review

The budgeted amounts are drawn from the original budgeted financial statement presented to Parliament in respect of the reporting period. Subsequent amendments to the original budget are not reflected in the budgeted amounts. Major variances between the original budgeted amounts and the actual amounts disclosed in the financial statements are explained below.

Net result

Actual net result of \$2.3 million surplus was recorded compared to a budgeted surplus of \$0.9 million. This is primarily due to:

- \$6.5 million underspend on employee related expenses as a result of delays in filling vacant positions.
- Within operating expenses, higher contractors costs were incurred to compensate for vacant positions, offset by less project and consultancy expenses caused by staffing constraints.
- Lower revenue of \$5.2m which includes a combination of lower appropriation received in line with lower expenses and lower Crown revenue due to less long service leave reimbursement.

Assets and liabilities

The Office had Net Assets of \$2.7 million compared to a budget of \$0.9 million.

Total assets were \$3.0 million higher than budget mainly due to increase in cash, as a result of lower than budgeted spending.

Total liabilities were \$1.2 million higher than budget mainly due to higher payables of \$0.4 million due to timing, and \$0.7 million increase in current provisions as a result of increase in staff numbers.

Cash flows

Cash and cash equivalents were \$3.3 million higher than budget mainly due to \$7.0 million underspend in employee-related payments and \$1.2 million underspend in purchase of intangible assets, offset by \$5.1 million lower appropriation received.

19 Reconciliation of Cash Flows from Operating Activities to Net Result

	2023 \$'000	2022 \$'000
Reconciliation of cash flows from operating activities to the net result as reported in the Statement of Comprehensive Income as follows:		
Net cash used on operating activities	6,358	4,911
Depreciation and amortisation expense	(3,129)	(3,150)
(Increase) in provisions	(543)	(77)
Increase / (Decrease) in prepayments	269	(274)
Decrease / (Increase) in payables	(825)	(214)
Increase in receivables	68	14
Decrease / (Increase) in contract liabilities	68	(72)
Net gains / (losses) on disposal of property, plant and equipment	16	(14)
Capitalised employee related costs	-	30
Impairment loss	-	(45)
Net result	2,282	1,109

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2023

20 Financial Instruments

The Office's principal financial instruments are outlined below. These financial instruments arise directly from the Office's operations or are required to finance the Office's operations. The Office does not enter into or trade financial instruments, including derivative financial instruments, for speculative purposes.

The Office's main risks arising from financial instruments are outlined below, together with the Office's objectives, policies and processes for measuring and managing risk. Further quantitative and qualitative disclosures are included throughout these financial statements.

The Ombudsman has overall responsibility for the establishment and oversight of risk management and reviews and agrees policies for managing each of these risks. Risk management policies are established to identify and analyse the risks faced by the Office, to set risk limits and controls and to monitor risks. Compliance with policies is reviewed by the Office on a continuous basis.

(a) Financial instrument categories

Class	Note	Category	Carrying Amount	
			2023 \$'000	2022 \$'000
Financial Assets				
Cash and cash equivalents	7	Amortised cost	4,910	2,693
Receivables ¹	8	Amortised cost	189	271
Financial Liabilities				
Payables ²	12	Amortised cost	1,709	884
Borrowings	14	Amortised cost	3,954	6,893

Note:

1. Excludes statutory receivables and prepayments (i.e. not within scope of AASB 7).
2. Excludes statutory payables and unearned revenue (not within scope of AASB 7).

The Office determines the classification of its financial assets and liabilities after initial recognition and, when allowed and appropriate, re-evaluates this at each financial year end.

(b) Financial risks

(i) Credit risk

Credit risk arises when there is the possibility that the counterparty will default on their contractual obligations, resulting in a financial loss to the Office. The maximum exposure to credit risk is generally represented by the carrying amount of the financial assets (net of any allowance for credit losses or allowance for impairment).

Credit risk arises from the financial assets of the Office, including cash, receivables and authority deposits. No collateral is held by the Office and the Office has not granted any financial guarantees.

Credit risk associated with the Office's financial assets, other than receivables, is managed through the selection of counterparties and establishment of minimum credit rating standards.

The Office considers a financial asset in default when contractual payments are 90 days past due. However, in certain cases, the Office may also consider a financial asset to be in default when internal or external information indicates that the Office is unlikely to receive the outstanding contractual amounts in full before taking into account any credit enhancements held by the Office.

Cash and cash equivalents

Cash comprises cash on hand and bank balances within the NSW Treasury banking system.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2023

Receivables – trade receivables

Collectability of trade receivables is reviewed on an ongoing basis. Procedures as established in the Treasurer's Directions are followed to recover outstanding amounts, including letters of demand.

The Office applies the AASB 9 simplified approach to measuring expected credit losses which uses a lifetime expected loss allowance for all trade receivables.

To measure the expected credit losses, trade receivables have been grouped based on shared credit risk characteristics and the days past due.

The expected loss rates are based on historical observed loss rates. The historical loss rates are adjusted to reflect current and forward-looking information on macroeconomic factors affecting the ability of the customers to settle the receivables. The Office has identified GDP and the unemployment rate to be the most relevant factors, and accordingly adjusts the historical loss rates based on expected changes in these factors.

Trade receivables are written off when there is no reasonable expectation of recovery. Indicators that there is no reasonable expectation of recovery include, amongst others a failure to make contractual payments for a period of greater than 365 days past due.

The loss allowance for trade receivables as at 30 June 2023 and 2022 was determined as follows:

	30 June 2023					Total
	Current	< 30 days	30-60 days	61-90 days	> 91 days	
Expected credit loss rate	-	-	-	-	-	-
Estimated total gross carrying amount	-	-	-	-	-	-
Expected credit loss	-	-	-	-	-	-
	30 June 2022					Total
	Current	< 30 days	30-60 days	61-90 days	> 91 days	
Expected credit loss rate	-	-	-	-	-	-
Estimated total gross carrying amount	-	-	-	-	-	-
Expected credit loss	-	-	-	-	-	-

The Office is not materially exposed to concentrations of credit risk to a single trade debtor or group of debtors as at 30 June 2023 and 2022.

(ii) Liquidity risk

Liquidity risk is the risk that the Office will be unable to meet its payment obligations when they fall due. The Office continuously manages risk through monitoring future cash flows and maturities planning to ensure adequate holding of high quality liquid assets.

During the current and prior year, there were no defaults of borrowings. No assets have been pledged as collateral. The Office's exposure to liquidity risk is deemed insignificant based on prior periods' data and current assessment of risk. Liabilities are recognised for amounts due to be paid in the future for goods and services received, whether or not invoiced. Amounts owing to suppliers (which are unsecured) are settled in accordance with the policy set out in NSW Treasury Circular 11-12. For small business suppliers, where terms are not specified, payment is made not later than 30 days from date of receipt of a correctly rendered invoice. For other suppliers, if trade terms are not specified, payment is made no later than the end of the month following the month in which an invoice or a statement is received. The Office did not pay any penalty interest during the financial year.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2023

The table below summarises the maturity profile of the Office's financial liabilities based on contractual undiscounted payments, together with the interest rate exposure:

	Weighted Average Effective Int. Rate %	Nominal Amount ¹ \$'000	Interest Rate Exposure			Maturity Dates		
			Fixed Interest Rate \$'000	Variable Interest Rate \$'000	Non-interest bearing \$'000	< 1 year \$'000	1 to 5 years \$'000	> 5 years \$'000
2023								
Payables ²		1,709	-	-	1,709	1,709	-	-
Borrowings								
Lease liabilities	4%	4,008	4,008	-	-	3,199	809	-
Total		<u>5,717</u>	<u>4,008</u>	<u>-</u>	<u>1,709</u>	<u>4,908</u>	<u>809</u>	<u>-</u>
2022								
Payables ²		884	-	-	884	884	-	-
Borrowings								
Lease liabilities	4%	7,058	7,058	-	-	3,050	4,008	-
Total		<u>7,942</u>	<u>7,058</u>	<u>-</u>	<u>884</u>	<u>3,934</u>	<u>4,008</u>	<u>-</u>

Note:

- The amounts disclosed are the contractual undiscounted cash flows of each class of financial liabilities based on the earliest date on which the entity can be required to pay. These amounts include both interest and principal cashflows and therefore will not reconcile to the amounts disclosed in the statement of financial position.
- The amount disclosed here exclude statutory payables and unearned revenue (not within scope of AASB 7).

(iii) Market risk

Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices. The Office's exposure to market risk are primarily through interest rate risk on the Office's borrowings. The Office has no exposure to foreign currency risk and does not enter into commodity contracts.

The effect on profit and equity due to a reasonably possible change in risk variable is outlined in the information below for interest rate risk. A reasonably possible change in risk variable has been determined after taking into account the economic environment in which the Office operates and the time frame for the assessment (i.e. until the end of the next annual reporting period). The sensitivity analysis is based on risk exposures in existence at the Statement of Financial Position reporting date. The analysis is performed on the same basis as for 2022. The analysis assumes that all other variables remain constant.

Interest rate risk

Interest rate risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market interest rates. A reasonably possible change of +/- 1% is used, consistent with current trends in interest rates (based on official RBA interest rate volatility over the last five years). The basis will be reviewed annually and amended where there is a structural change in the level of interest rate volatility.

The following table demonstrates the sensitivity to a reasonably possible change in interest rates:

	2023 \$'000		2022 \$'000	
	-1%	+1%	-1%	+1%
Net Result	(49)	49	(27)	27
Equity	(49)	49	(27)	27

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2023

(c) Fair value measurement

Fair value recognised in the Statement of Financial Position

Management assessed that cash, trade receivables, trade payables, and other current liabilities approximate their fair values, largely due to the short-term maturities of these instruments.

21 Related Party Disclosures

There were 17 individuals who fulfilled key management personnel (KMP) roles at some point during the year (12 KMP individuals in 2022). The increase in KMP numbers resulted from the interim appointment of acting Executives on a temporary basis.

Compensation for these KMP are as follows:

	2023	2022
	\$'000	\$'000
Salaries	3,354	2,236
Post-employment benefits	344	204
Termination benefits	198	-
Total remuneration	<u>3,896</u>	<u>2,440</u>

The Office did not enter into transactions with close family members or entities controlled or jointly controlled by our KMP.

During the year, the Office entered into transactions on arm's length terms and conditions with other entities controlled by NSW Government. These transactions include:

- Insurance under Treasury Managed Fund Scheme
- Long Service Leave and Defined Benefit Superannuation assumed by the Crown
- Appropriations (and subsequent adjustments to appropriations)
- Transactions relating to the Treasury Banking System
- Payment for the audit of our financial statements
- Receipts from the provision of training and related services
- Grants and contributions related to funding specific programs and projects
- Leasing of properties from Property NSW.

22 Events after the Reporting Period

There were no events after the reporting period 30 June 2023.

End of audited financial statements

Appendices — Additional complaints data



A1 Categorisation of contacts and complaints

We categorise contacts received by our office into 6 categories:

- (1) actionable complaints
- (2) excluded complaints
- (3) requests for information
- (4) notifications
- (5) misdirected contacts
- (6) Feedback Assist.

Actionable complaints

These are complaints that we are authorised by legislation to receive and, if necessary, to investigate under the *Ombudsman Act 1974*

(**Ombudsman Act**) or the *Community Services (Complaints, Reviews and Monitoring) Act 1993 (CS CRAMA)*.

An actionable complaint under section 12 of the Ombudsman Act is a complaint about the conduct of a ‘public authority’ (as defined by the Act), provided the conduct is not ‘excluded conduct’ as set out in Schedule 1 of the Act. Conduct refers to action or inaction relating to a matter of administration.

An actionable complaint under CS CRAMA is a complaint about the conduct of a ‘service provider’ with respect to the provision, failure to provide, withdrawal, variation or administration of a ‘community service’ in respect of a particular person or group of persons. ‘Community service’ and ‘service provider’ are defined in that Act.

An actionable complaint made to us by a public official about suspected wrongdoing by a NSW public authority may also constitute a public interest disclosure (PID) under the *Public Interest Disclosure Act 1994*.

Excluded complaints

These are complaints to our office that are about a NSW public authority (as defined in the Ombudsman Act) or a service provider (as defined in CS CRAMA), but where the conduct complained about is excluded from our jurisdiction by Schedule 1 of the Ombudsman Act. Excluded complaints include complaints to us about:

- conduct of a minister or a member of Parliament (excluded by Item 1 of Schedule 1)
- conduct of a judge, court or tribunal (excluded by Item 2 of Schedule 1)
- conduct of the NSW Police Force (excluded by Item 13 of Schedule 1)
- conduct of a person acting as a legal adviser to or legal representation of a public authority (excluded by Item 6 of Schedule 1).

Requests for information

People (including both members of the public and public officials) often contact us to seek information, advice or other assistance about a public authority or community service rather than making a complaint. This includes where public officials contact us to request advice or assistance about how to make or deal with PIDs.

Notifications

In some cases, agencies have a legal duty to report to us when certain events or incidents occur. These include:

- notifications of the segregation of detainees (youth justice) for more than 24 hours under clause 10(2)(a) of the *Children (Detention Centres) Regulation 2015*
- notifications of the deaths of children occurring in NSW under Parts 5A and 6 of CS CRAMA
- notifications of the determination of applications under section 13(1)(d) of the *Mandatory Disease Testing Act 2021 (MDT Act)*
- notifications of determinations of review by the Chief Health Officer under section 26(e) of the MDT Act.

Misdirected contacts

We classify a contact to our office as a misdirected contact if it is about a person or body that is not a NSW public authority (as defined in the Ombudsman Act) or service provider (as defined in CS CRAMA). For example, if someone were to contact us wishing to complain about a federal agency or a private company, that would be a misdirected contact.

Feedback Assist

Feedback Assist is an online tool that enables members of the public to provide feedback to NSW Government agencies through a link (a 'widget') on their websites.

Under section 35E of the Ombudsman Act, our office has a role in receiving, reviewing and, where appropriate, referring to relevant agencies any feedback provided via the Feedback Assist widget.



A2 Complaints about state government departments and other public authorities (excluding local councils, custodial services and community service providers)

Table 26. Finalised actionable complaints about NSW state government departments and other public authorities (top 10 by number)⁴¹

Public authority	Number	% of total complaints
DCJ Housing	931	17%
Service NSW	740	13%
Transport for NSW	564	10%
Land and Housing Corporation	472	9%
Revenue NSW	410	7%
Department of Education (including public schools)	302	5%
NSW Trustee and Guardian	245	4%
Fair Trading	197	4%
TAFE NSW	161	3%
Legal Aid Commission of New South Wales	113	2%

Table 27. Finalised actionable complaints about NSW state government departments and other public authorities by agency portfolio/category

Agency portfolio/category	Number	% of total complaints
Customer Service	1,462	26%
Communities and Justice	1,426	26%
Environment and Planning	682	12%
Transport	578	10%
Education	502	9%
Universities	334	6%
Health (excluding Local Health Districts)	188	3%
Local Health Districts ⁴²	140	3%
Treasury	84	2%
Regional NSW	41	1%
Jobs and Tourism	31	1%
Independent Integrity Agencies	15	<1%
Premier's Department	14	<1%
The Cabinet Office	2	<1%
Other and agency not named	36	1%
TOTAL	5,535	100%

41. **Tables 26 and 27** exclude complaints about: local councils (see **Table 28**); Corrective Services NSW, Youth Justice NSW and Justice Health and Forensic Mental Health Network (see **Figures 14 and 15**); the provision of community services by Department of Communities and Justice (see **Table 30**).

42. While Local Health Districts (LHDs) sit under NSW Health from an administrative perspective, we have listed them in their own category in this table. This is due to the relatively high number of actionable complaints we receive about LHDs.

Observations

In 2022–23, we finalised 5,535 actionable complaints about NSW Government departments and other public authorities. **Table 26** shows the 10 agencies with the highest number of actionable complaints finalised. Actionable complaints about these agencies represent 74% of all actionable complaints about NSW Government departments and other public authorities that we finalised in 2022–23. The number of actionable complaints finalised by category is shown in **Table 27**.

The most frequently raised issues included actionable complaints about: customer service, the complaint-handling process, the complaint outcome, charges and fees, and the merits or reasoning of a decision.

Examples of agencies we received significant numbers of complaints about in 2022–23 include:

- DCJ Housing — most complaints received about DCJ Housing related to standards of customer service, particularly delays responding to client complaints and requests.
- Land and Housing Corporation — consistent with prior years, complaints are most commonly about delays in responding to and completing housing maintenance requests.
- Service NSW and Revenue NSW — most complaints related to the administration of grants, including COVID-19 business grants, and other disaster assistance programs.
- Transport for NSW — complaints about licensing, registration and tolls featured highly in relation to standards of customer service, as well as fees and charges.

A3 Complaints about local government

Finalised actionable complaints

Table 28. Finalised actionable complaints about local councils (top 10 by number)

Council	Number	Resident population	Rate of complaints per 100,000 residents	% of all local council complaints finalised
Central Coast Council	121	348,930	35	6
Canterbury-Bankstown Council	73	371,726	20	4
Northern Beaches Council	65	263,090	25	3
Blacktown City Council	63	410,419	15	3
Lane Cove Municipal Council	62	40,028	155*	3
City of Sydney Council	60	217,748	28	3
Shoalhaven City Council	52	109,418	48	3
Bayside Council	48	177,629	27	2
Sutherland Shire Council	48	231,723	21	2
City of Parramatta Council	46	259,878	18	2

Observations

In 2022–23, we finalised 2,011 actionable complaints about councils, including 9 complaints about county councils.

Table 28 shows the 10 councils with the highest number of actionable complaints finalised. Actionable complaints about these councils represent 31% of all local government actionable complaints that we finalised in 2022–23.

*A significant number of complaints about Lane Cove Council were generated by an online assisted petition, which automatically raised a

complaint to our office once an individual signed the petition.

The most frequently raised issues in actionable complaints about local government in 2022–23 include:

- standards of customer service
- complaint-handling processes
- complaint outcomes
- merits/reasoning of council decisions when the council is exercising its discretion in accordance with policy or statutory provisions
- council enforcement action.

A4 Complaints and related data concerning people in detention or under court-ordered supervision

Notifications about segregation and separation in youth justice centres

Table 29. Notifications about segregation and separation in youth justice centres

Youth justice centre	Segregation	Separation	Total
Frank Baxter Youth Justice Centre	34	413	447
Cobham Youth Justice Centre	57	367	424
Reiby Youth Justice Centre	11	349	360
Acmena Youth Justice Centre	7	248	255
Orana Youth Justice Centre	2	161	163
Riverina Youth Justice Centre	0	63	63
Total	111	1,601	1,712

Observations

The number of youth justice notifications regarding segregation and separation exceeding 24 hours has fallen from 1,873 in 2021–22 to 1,712 in 2022–23. This is likely for a combination of reasons. For example, policies requiring young people to be separated on entry to custody during the COVID-19 pandemic were relaxed in February 2022. This decrease was, however, offset by a change of reporting practices by Youth Justice NSW in August 2022. Young people housed

in the high-risk units in Cobham and Baxter are now recorded as being separated from the general population. This is because these units operate on a separate routine from other units within the centres.

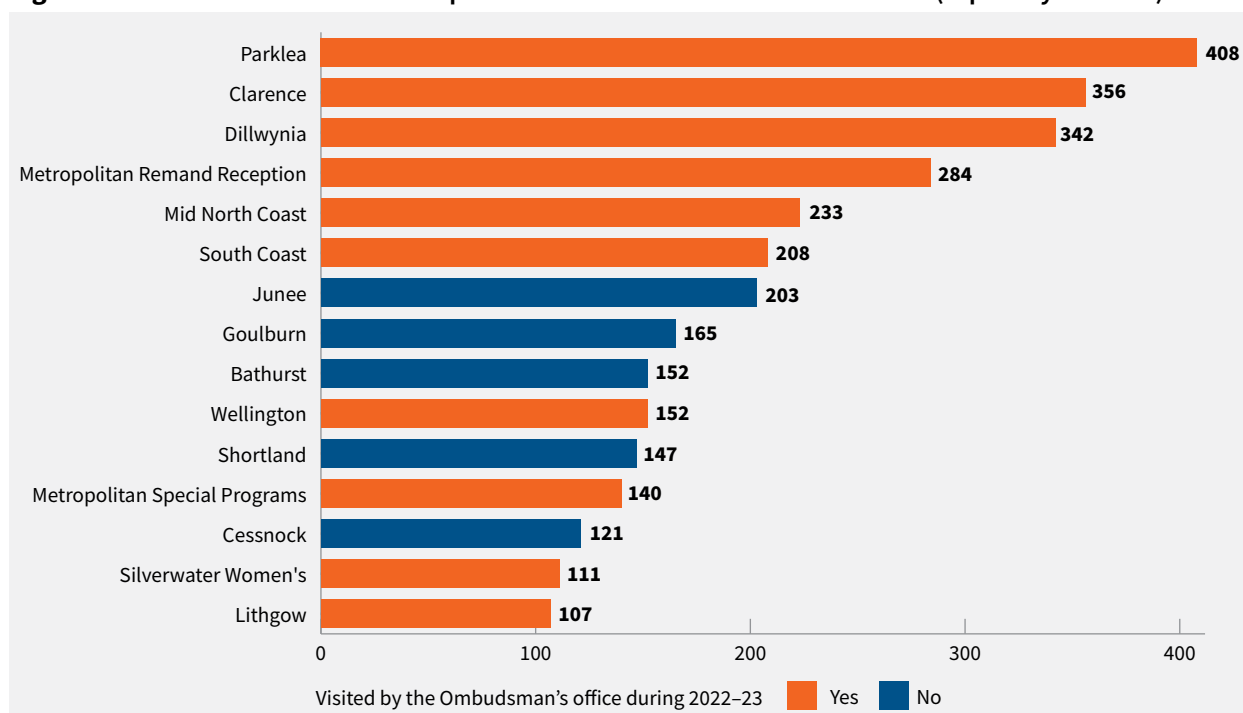
Being placed in a high-risk unit does not necessarily mean young people in these units are unable to mix with other young people. We also note that, while the number of young people in custody fluctuates, the number was lower in June 2023 (175) than in June 2022 (191).



South Coast Correctional Centre

Complaints about adult correctional centres

Figure 14. Finalised actionable complaints about adult correctional centres (top 15 by number)



Observations

We finalised 3,527 complaints about adult correctional centres in 2022-23 compared to 2,844 the previous year. A key reason for this has been a renewed focus on our visits program to custodial centres, which was significantly disrupted during the COVID-19 pandemic. We visited 15 adult custodial centres, 1 transitional centre and 1 court cell complex during 2022-23.

Figure 14 shows the 15 adult correctional centres with the highest number of actionable complaints finalised. Actionable complaints about these centres represent 89% of all complaints concerning adult correctional centres that we finalised in 2022-23.

In 2022-23, we visited 15 adult correctional centres. We visited some centres more than once. A visit to a centre will often increase the number of complaints about a particular centre

As in previous years, we tend to receive the most complaints from people in large correctional centres and centres housing maximum security inmates. In 2022-23 the most frequently raised issues people complained about were:

- medical issues, such as access to opioid agonist treatment
- daily routine, for example, lockdowns, lack of activities or programs

- property, including lost, damaged or confiscated property
- officer misconduct
- issues relating to visits, including delays in visitors being approved or difficulty booking visits.

Of note, when an inmate from a publicly managed correctional centre complains about their health care, the complaint is recorded against Justice Health (see **Figure 15**).

Complaints about health care in privately managed prisons (Parklea, Junee and Clarence) are recorded against the centre the inmate is calling from, as the provision of health care in these prisons is not provided by Justice Health.

Two complaints were referred to us by the Inspector of Custodial Services, both were closed in this period.

Complaints about young people in detention

Observations

During 2023, we recommenced our visits to youth justice centres, visiting all 6 centres. In 2022-23 we received 40 complaints about youth

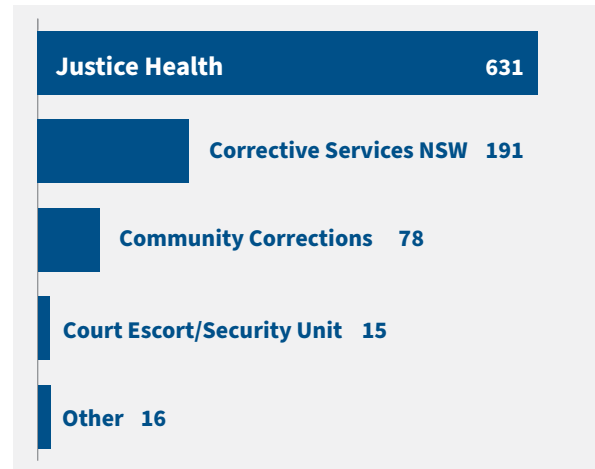
justice centres compared to 22 in 2021–22. The complaints were about a range of issues including daily routine, concerns about being transferred to a different centre, and the quality or quantity of food provided.

Complaints about other custodial and corrections-related services

Observations

In 2022–23, we finalised 931 complaints about custodial and corrections-related services, mainly about Justice Health. Health care complaints that raise concerns about the quality of clinical care are dealt with by the Health Care Complaints Commission; however, we deal with complaints about administrative issues, such as lack of access to a clinic, unreasonable delays to see a practitioner or failure to provide reasons for decisions.

Figure 15. Finalised actionable complaints about other custodial and corrections-related services



A5 Actionable complaints about community service providers

Finalised complaints about community service providers

Table 30. Finalised complaints about community service providers by service area

Service area	Number	%
Out-of-home care — home-based — foster care	217	28
Statutory child protection	214	28
Out-of-home care — home-based — kinship care	159	21
Out-of-home care — intensive therapeutic care	36	5
Other service area	31	4
Early intervention/family support	26	3
After care/leaving care	20	3
Out-of-home care — other	18	2
Specialist homelessness services — adult	17	2
Neighbourhood centre	11	1
Adoption	6	1
Disability services	6	1
Specialist homelessness services — youth	5	1
Specialist homelessness services — unknown	2	<1
Total	768	100

Observations

In 2022–23, we finalised 768 actionable complaints about DCJ and NSW Government funded community service providers. We may make inquiries in response to a complaint about the provision, failure to provide, withdrawal, variation or administration of a community service by DCJ or by persons or organisations funded, licensed or authorised by the Minister for Families and Communities, the Minister for Seniors and/or the Minister for Disability Inclusion.

The most frequently raised issues in actionable complaints were:

- case management and casework undertaken by out-of-home care providers
- standard of customer service
- casework practice
- management of complaints to DCJ and other community service providers
- responses to risk of significant harm reports.

A6 Notifications received

Notifications received by type

Table 31. Notifications received by type

Notification type	Number
Youth Justice (segregations and separations)	1,712
Deaths of children that occurred in NSW	456
Mandatory disease testing application determinations	67
Total	2,235

Observations

Youth Justice notifications decreased compared to 2021–22, as shown in **Appendix A.4 Table 29**.

Child death notifications were similar to the previous reporting period. We will report on deaths occurring in the 2021–22 calendar years when we table the next biennial report of the deaths of children before the end of 2023.

We will report on notifications of mandatory disease testing application determinations when we table our report on the first 12 months of the operation of the MDT Act. This will occur in the first half of 2024.

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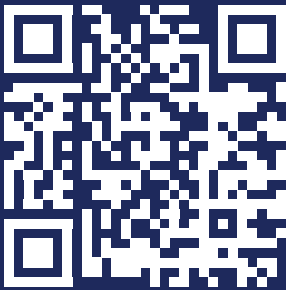
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Annual Report 2022–23 imagery

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