



# OMBUDSMAN

Western Australia

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**32<sup>nd</sup> Annual Report of the  
Parliamentary Commissioner for  
Administrative Investigations**

**Annual Report 2003**

## Our mission

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To assist the Parliament of Western Australia to be confident that the public sector of the State is accountable for, and is improving the standard of, administrative decision-making, practices and conduct.

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**OMBUDSMAN**  
Western Australia

Mr President, Mr Speaker

**Annual Report of the Parliamentary Commissioner for Administrative Investigations for the year ended 30 June 2003**

In accordance with section 64(1) of the *Financial Administration and Audit Act 1985* (as modified by Part 1 of Schedule 1A), I submit this report for the year ended 30 June 2003, together with copies of the opinions of the Auditor General.

To the extent that the report contains subject matter not required by the *Financial Administration and Audit Act* or by the Treasurer's Instructions made under that Act, it is submitted pursuant to section 27 of the *Parliamentary Commissioner Act 1971*.

A handwritten signature in black ink, appearing to read 'D O'Donnell'.

Deirdre O'Donnell  
**Parliamentary Commissioner  
for Administrative Investigations**

10 November 2003



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## The year's work

The reporting year that ended on 30 June 2003 proved to be another busy one for the office.

We started the year with 1,228 allegations on hand. Over the course of the year we received 2,619 complaints containing 3,472 allegations, and we finalised 2,658 complaints involving 3,775 allegations. Thus we finished the year with 925 allegations on hand.

The number of complaints and allegations received was the lowest since 1998. Declines in the number of allegations received occurred in relation to both police and railways special constables, and to the rest of the public sector. While it is not possible to identify a specific cause for this decline, I am of the view that a relevant consideration could be the considerable amount of work presently being put into developing internal complaint handling systems within certain agencies.

### What does the Ombudsman do?

The Parliamentary Commissioner Act 1971 (the Act) determines that the main role of the Ombudsman is to investigate administrative acts or omissions in State Government agencies and local government authorities; to investigate complaints about the conduct of police officers; and to make recommendations to redress the effect of defective administration or police misconduct and to prevent its recurrence.

We fulfil this role in the following ways:

- by providing an efficient and effective complaint handling system;
- by assisting in improving the quality of, and public confidence in, public administration by identifying and investigating areas of defective administration - whether or not complaints have been received;
- by developing community awareness of the Ombudsman and services provided by the Ombudsman;
- by developing the understanding of the role of Ombudsman in State Government agencies and local government authorities; and
- by assisting State Government agencies and local authorities maximise the efficiency and effectiveness of their own internal complaint handling systems.

### How is the Ombudsman regulated?

The Act contains various provisions which regulate the Ombudsman, as follows:

- the Ombudsman is an independent office responsible to Parliament - not to a Minister of the Crown
- the Ombudsman may, at any time, lay before each House of Parliament a report on any matter arising in connection with the exercise of her functions
- the Act gives the Ombudsman wide investigative powers, including those of a Royal Commission - subject to the Rules of Parliament, the Ombudsman's procedures on investigation may be regulated in such a manner as she thinks fit

- the Ombudsman cannot investigate a decision of a Minister of the Crown, but may investigate a recommendation made to a Minister
- investigations may be commenced by the Ombudsman in response to the following:
  - a written complaint from any person or organisation affected by the administrative act or omission.
  - on reference by either House of Parliament, a Committee of either House, or a Joint Committee of both Houses in respect of a matter within jurisdiction
  - on the Ombudsman's own motion.
- any person who is involved in an investigation may be represented by counsel or otherwise
- the Ombudsman cannot in any report make any adverse comment about any person unless that person is given the opportunity of responding to it and a response is fairly set out in the report
- investigations are conducted in private and the Ombudsman can only disclose information or make a statement about an investigation subject to compliance with specified provisions of the Act
- the Ombudsman has a discretion whether to commence or continue an investigation
- provision is made for consultation between the Ombudsman and the Minister responsible for the agency under investigation.
- as a result of an investigation, the Ombudsman may recommend to the Chief Executive Officer that redress be given to a complainant and that practices, procedures or legislation be reviewed to prevent a recurrence
- if the Ombudsman's recommendations are not accepted within a reasonable time frame, she can send to the Premier a copy of the report, the recommendations and the relevant correspondence – the Act provides that the Ombudsman may table those papers in each House of the Parliament
- the Ombudsman cannot investigate a complaint about the conduct of a police officer until the Commissioner of Police has been given a reasonable opportunity to conduct his own investigation.

### How are decisions about investigations made?

The Act provides wide ranging discretionary powers to assist determine the scope and nature of investigations. At the individual complaint level, in accordance with the Act, all complaints are assessed against the following criteria before an investigation commences:

1. **Basic jurisdiction issue – agency complained about** - First, we ascertain whether the agency complained about is within the Ombudsman's jurisdiction – i.e. a government department or authority, or local government. Certain agencies are outside our jurisdiction, as are decisions made by Cabinet or Ministers or the actions of legal advisers.



**2. Other key jurisdiction issues** – We assess whether:

- the action or decision complained of relates to a matter of administration
- the action complained of was in the exercise of a power or function
- the complainant is personally affected by the action or decision
- the complaint has been made within 12 months of the action or decision complained of
- the complainant has or had a legal remedy or a right of review or appeal.

**3. Discretion whether or not to investigate** - We can exercise our discretion whether or not to investigate in situations where:

- special circumstances exist for matters over 12 months old
- the complainant has a legal remedy or right of review or appeal, in which case we consider whether it is reasonable to expect the complainant to resort to that remedy
- a complaint appears to us to be frivolous, trivial, vexatious, or not in good faith
- an investigation does not appear to be warranted in the circumstances, such as where the agency is still investigating the complaint or a complaint has not yet been made to the agency; or where another complaint-taking body may be more appropriate
- the complainant does not have a sufficient personal interest in the matter.

**4. Referral to other body** - If a complaint is out of our jurisdiction we try to find another body which might be able to assist the complainant. For complaints within jurisdiction but where there is a more appropriate body to do the investigation, we refer it to that body (after having exercised our discretion not to investigate).

**5. Action once decision is made** - If we decide to investigate a complaint, we advise the agency and the complainant accordingly. As part of this process, we identify the issues raised by the complainant (along with any other issues that we consider material), and identify the specific heads of maladministration for each allegation. We can also choose to conduct either a formal or an informal investigation.

If we decide not to investigate, the complainant is advised of this, along with the reasons for our decision.

**6. Prioritising investigations** - The majority of our investigations are conducted informally. In prioritising these we have regard to a number of factors. For instance, we assess whether any particular urgency attaches to the outcome of the complaint. For complex matters, we consider conducting a more detailed investigation where there is significant public interest in the matter complained about; or the complaint has significant public policy implications, or raises systemic policy, procedural or legislative issues.

At the systemic level, investigations are more likely to proceed on a formal basis and involve the use of the Ombudsman's Royal Commission powers. In addition to the above criteria we also consider the following when making decisions about whether to investigate an issue, as well as how the investigation should be conducted:

- public interest in the matter
- public policy implications of the matter
- whether there is a reasonable prospect of proving an allegation or group of allegations
- whether any practical outcome can be achieved for the complainant, due to the passage of time
- whether important systemic policy, procedural or legislative issues are involved
- available resources.

## Complaints and allegations received

When examining the statistics relating to the work of the office it is important to bear in mind that the amount of work involved in an investigation varies considerably from case to case. Records are kept on the basis of both complaints and allegations (i.e. a complaint can involve one or more allegations), in an attempt to reflect the differing amount of work involved. However, there is no quantitative or qualitative weighting of relative importance or complexity. This means that allegations requiring major investigations are treated the same way, statistically, as straightforward ones.

Unlike some other Ombudsman legislation, the *Parliamentary Commissioner Act 1971* does not provide for the receipt of oral complaints. This, together with other variations in jurisdiction, and the differences in recording criteria, makes valid comparisons between the statistics of Ombudsmen's offices in Australia or elsewhere problematic. In particular, it should be noted that the office handles many thousands of telephone enquiries each year, frequently from members of the public seeking information rather than wishing to make a complaint. Many have a grievance but require assistance to establish how and to whom a complaint can be made. As far as possible, we provide advice and assistance on these occasions.

The office also has an important referral role. Even though we may be unable to be of direct assistance to people who approach the office about matters that are not within jurisdiction, it is often possible to refer them to another appropriate source of assistance. Therefore, an outcome of 'no jurisdiction' does not necessarily mean that the office has not been of any assistance to the person who consulted us.

Table 1.1 shows the number of complaints and allegations received over the past five years.

TABLE 1.1	Complaints and Allegations Received 1999 to 2003				
	1999	2000	2001	2002	2003
<b>Complaints received</b>					
Police	1,530	1,176	1,297	1,267	1,170
Railway special constables	36	50	43	29	14
Other State government departments and agencies and local governments	1,465	1,441	1,571	1,642	1,435
<b>Total</b>	<b>3,031</b>	<b>2,667</b>	<b>2,911</b>	<b>2,938</b>	<b>2,619</b>
<b>Allegations received</b>					
Police	2,149	1,996	1,986	1,811	1,574
Railway special constables	67	86	88	53	20
Other State government departments and agencies and local governments	1,611	1,756	1,974	2,059	1,878
<b>Total</b>	<b>3,827</b>	<b>3,838</b>	<b>4,048</b>	<b>3,923</b>	<b>3,472</b>

Between 1990 and 2001 there was a steady increase in complaints. However, for the past two years this trend has reversed. Figure 1.1 illustrates the number of allegations received since 1990.

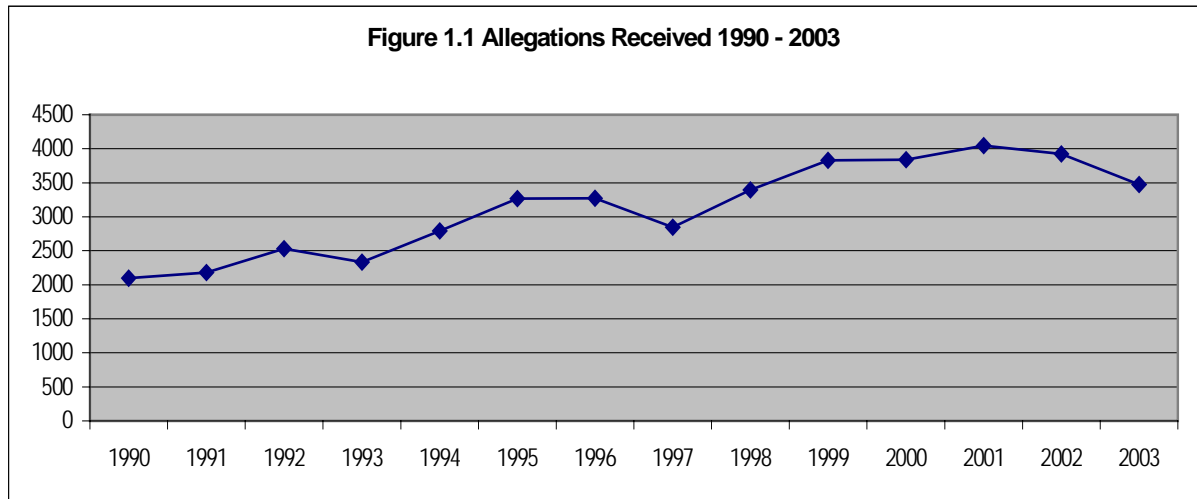


Table 1.2 shows the geographical origin of the allegations received, based on the electoral districts of Western Australia.

TABLE 1.2	Geographical origin of allegations received 1999 to 2003				
	1999	2000	2001	2002	2003
<b>Number of allegations received</b>					
Metropolitan electorates	2,835	2,804	3,015	2,857	2,477
Country electorates	893	935	986	968	942
Outside WA	99	99	47	98	53
<b>Total</b>	<b>3,827</b>	<b>3,838</b>	<b>4,048</b>	<b>3,923</b>	<b>3,472</b>
<b>Number of allegations per 10,000 electors</b>					
Metropolitan electorates	33	32	30	31	28
Country electorates	30	30	32	32	30

## Complaints and allegations finalised

During the year 2,658 complaints containing 3,775 allegations were finalised in the manner shown in Table 1.3.

TABLE 1.3	Manner in which allegations finalised	
	Number of allegations	% (approx.)
<b>Finalised at initial stage</b>		
No jurisdiction	256	7
Discretion exercised not to investigate	625	17
Withdrawn or not proceeded with	136	3
Finalised to satisfaction of complainant	155	4
Referred back to agency	364	10
<b>Finalised by completed investigation or review of internal investigation</b>		
Withdrawn or not proceeded with	231	6
Could not be determined	177	5
Sustained partly	157	4
Sustained wholly or substantially	354	9
Not sustained	1,320	35
<b>Total allegations finalised</b>	<b>3,775</b>	<b>100</b>

## Assistance to complainants

Complainants are especially interested in whether we can provide some form of assistance or action to remedy the problem they have complained about. Table 1.4 shows the extent to which it was possible to obtain some form of benefit for complainants or a change to the law, or the practice or procedure of a government agency.

TABLE 1.4	Assistance provided – allegations finalised	
	Number of actions	
<b>Direct benefit for complainant</b>		
Apology given		147
Act of grace payment made		24
Action/decision expedited		61
Explanation or reasons provided by agency		26
Monetary charge reduced, withdrawn or refunded		18
Reversal or significant variation of original decision		61
Criminal, disciplinary or infringement charge reduced or withdrawn		6
Other assistance		51
Changes to law, practice or procedure		177

Table 1.5 (at page 8) gives details of allegations finalised in respect of individual departments, authorities and local governments.

Following our investigation, we find that a high proportion of allegations cannot be sustained. At times this may be because there is a conflict of evidence that cannot be resolved. However, in many cases we conclude that the agency has in fact acted reasonably and within its powers. Although it may often

appear to the complainant that a public officer has gone out of their way to act unreasonably, in our experience the cause is far more likely to be inadvertence or human error. However, we remain vigilant for evidence of poor systems or processes, and always aim to ensure that the circumstances which gave rise to a particular complaint do not recur.

## Telecommunications interception

The *Telecommunications (Interception) Western Australia Act 1996* (the Act) was proclaimed on 17 December 1996. The Act came into operation on 24 December 1996 when the proclamation by the Governor was published in the *Government Gazette*. The *Telecommunications (Interception) Western Australia Regulations 1996* (the Regulations) made pursuant to the Act were also published in the *Government Gazette* on 24 December 1996 and came into operation on the same day as the Act.

The Act designated the Western Australia Police Service as an 'eligible authority', which in turn allowed it to be declared an 'agency' for the purposes of the *Telecommunications (Interception) Act 1979* of the Commonwealth (the Commonwealth Act). Final approvals for that declaration were completed on 15 July 1997, which was the day of its gazettal by the Commonwealth Attorney General.

The Regulations prescribe the Parliamentary Commissioner for Administrative Investigations (the Ombudsman) as the Principal Inspector for the purposes of the Act, and officers of the Ombudsman as Inspectors.

The *Telecommunications (Interception) Western Australia Amendment Act 2000* was proclaimed on 9 May 2000 and came into operation the following day. It designated the Anti-Corruption Commission (the ACC) as an eligible authority, which in turn allows it to be declared an agency for the purposes of the Commonwealth Act. The ACC began to apply for warrants to carry out telephone interceptions during 2001/2002.

The *Royal Commission (Police) Act 2002* was assented to by His Excellency the Governor on 28 June 2002 and came into operation that day. It included provision to amend the Act to designate the Police Royal Commission as an eligible authority under the Act. It also contained provision for the Commission to be declared an agency for the purposes of the Commonwealth Act. However, the Commonwealth Government held the view that it would be inappropriate for the Commission to conduct interceptions in its own right and did not effect the necessary declaration. As a result, the Commission did not have the power to carry out its own interceptions but was eligible to receive product of interceptions carried out by other agencies.

Subsection 10(2) of the Act provides that:

*The principal inspector is to inspect the eligible authority's records at least twice during each financial year in order to ascertain the extent to which the authority's officers have complied with Part 2 since the last inspection under this Part of the authority's records.*

Subsection 11(2) of the Act provides that:

*The principal inspector, as soon as practicable, and in any event within 3 months, after the end of each financial year, is to report to the Minister in writing, in relation to the eligible authority, about the results of the inspections under section 10(2), during that financial year, of the authority's records.*

In accordance with subsection 11(2), a report on the inspections carried out in relation to the Western Australia Police Service under subsection 10(2) during the financial year ended 30 June 2002 was presented to the Minister for Police, and a report on the inspections carried out in relation to the ACC under subsection 10(2) during the financial year ended 30 June 2002 was presented to the Attorney General.

We carried out 15 inspections of the operations of the Western Australia Police Service in connection with telecommunications interceptions, including visits to the premises of the Telecommunications Interception Unit and other units during the reporting period. In respect of the ACC, we carried out six inspections. In respect of the Royal Commission, we carried out four inspections.

TABLE 1.5 Outcome of allegations received and/or finalised – by agencies

	Allegations received	Finalised at initial stage					Finalised by completed investigation or review					Allegations finalised
		No jurisdiction	Discretion exercised	Withdrawn or not proceeded with	Finalised to satisfaction of complainant	Referred back to agency	Withdrawn or not proceeded with	Could not be determined	Sustained partly	Sustained wholly or substantially	Not sustained	
<b>Departments and Authorities</b>												
Agriculture – Department of	5	1					6				1	8
Australian Integration Management Services Corp.	260	5	36	20	46	122	3	9		10	43	294
Builders' Registration Board	3		2				1		1			4
Building Disputes Committee	3					2	1					3
Central TAFE	2									1	1	2
Central West TAFE	1						2		1		1	4
Challenger TAFE	3					1				1	1	3
Commercial Tribunal	1											0
Community Development – Department for	99	8	25			11	8	6	2	7	22	89
Conservation and Land Management – Department of	0									2	1	3
Consumer and Employment Protection – Department of	5		2			1			1		5	9
Criminal Injuries Compensation	4	1	1			1					1	4
Culture and the Arts – Department of	1	1										1
Curtin University	8										1	1
Dental Board	0							2	1	3	4	10
Edith Cowan University	0						1				2	3
Education and Training – Department of	37	1	6			6	1		1	8	5	28
Electoral Commission	3	3										3
Environmental Protection Authority	0		1						1		1	3
Environmental Protection – Department of	4	1	1			1					1	4
Fire and Emergency Services Authority	1											0
Finance Brokers Supervisory Board	1		1									1
Fisheries – Department of	4	1	4								1	6
Forest Products Commission	3		1						1			2
Government Employees' Housing Authority	0									2	5	7
Government Employees Superannuation Board	2					2						2
Guardianship and Administration Board	7	3		2			1				1	7
Health – Department of	6	2	3	1								6
Health Review – Office of	30		2			2	20				14	38
Heritage Council	1	1										1
Hospital and Health Services	17		14			1	1			3	2	21
Housing and Works – Department of	128	3	18	4	2	10	19	5	4	6	36	107
Indigenous Affairs – Department of	1	1										1
Industrial Relations Commission – Dept. of the Registrar	1					1						1
Insurance Commission	2								1			1
Justice – Department of – Offender Management Division	445	48	54	57	56	136		16	7	12	102	488
Justice – Department of – Other	36	6	8	2	1	5			1	1	6	30
Land Administration – Department of	5				1	1					1	3

	Allegations received	Finalised at initial stage					Finalised by completed investigation or review					Allegations finalised
		No jurisdiction	Discretion exercised	Withdrawn or not proceeded with	Finalised to satisfaction of complainant	Referred back to agency	Withdrawn or not proceeded with	Could not be determined	Sustained partly	Sustained wholly or substantially	Not sustained	
Legal Aid	7	3	4									7
Legal Practitioners Complaints Committee	5		2			4						6
Local Government & Regional Development – Dept. of Main Roads	7	1	1		1	1	2				1	4
Medical Board	3	1							1		4	6
Mental Health Review Board	0						1					1
Metropolitan Cemeteries Board	2										1	1
Midland College of TAFE	1		1									1
Motor Vehicle Dealers Licensing Board	1	1										1
Murdoch University	21	1	12	1		1	2		3	2	6	28
National Trust of Western Australia	1								1			1
Nurses Board	0										1	1
Organisation not identified	12	1	5	1							2	9
Parole Board	4	1	2	1		1					1	6
Planning and Infrastructure – Department for Planning Commission	49	2	13	3	8	7	6		1	5	3	48
Police Service	1574	7	280	30	8	5	124	121	99	226	853	1753
Premier and Cabinet – Department of the Public Advocate	1						1					1
Public Sector Standards Commissioner – Office of the Public Trustee	1	1										1
Public Trustee	59	5	14	3	1	7	2	2	4	6	33	77
Racing, Gaming & Liquor – Department of Real Estate and Business Agents Supervisory Board	4	2	1			1						4
Settlement Agents Supervisory Board	2		1							2	2	5
Small Business Development Corporation	1											0
South East Metropolitan TAFE	1		1									1
State Supply Commission	1								1			1
Strata Titles Referee	3	1	2								1	4
Tourism Commission	1									1		1
Totalisator Agency Board	1		1									1
Training – Department of Treasury and Finance – Department of University of Western Australia	1	1	1							1		3
Veterinary Surgeons Board	7		3			1						4
University of Western Australia	3		2									2
Veterinary Surgeons Board	1					1						1
WA Government Railways – Special Constables	20		1				2	5		7	7	22
WA Government Railways – Other	7	3	1		1	1				1	2	9
Water and Rivers Commission	4	1	1			1					1	4
Water Corporation	23		10	2	1	3					2	18
Water Regulation – Office of Western Australian Land Authority	0						1				1	2
Western Power Corporation	2									1		1
WorkCover	93		26	4	25	9	5	3	4	11	30	117
Workplace Agreements Commissioner	7	1	4			1	1					7
Worksafe	2											0
Worksafe	3								1			1
Zoological Gardens Board	1		1									1
<b>Sub Totals</b>	<b>3078</b>	<b>119</b>	<b>569</b>	<b>131</b>	<b>152</b>	<b>349</b>	<b>210</b>	<b>169</b>	<b>137</b>	<b>321</b>	<b>1215</b>	<b>3372</b>

	Allegations received	Finalised at initial stage				Finalised by completed investigation or review				Allegations finalised		
		No jurisdiction	Discretion exercised	Withdrawn or not proceeded with	Finalised to satisfaction of complainant	Referred back to agency	Withdrawn or not proceeded with	Could not be determined	Sustained partly		Sustained wholly or substantially	Not sustained
<b>Local Governments</b>												
Albany – City	6		2							1	5	8
Armadale – City	7							1	1		2	4
Ashburton - Shire	2		1			1						2
Augusta/Margaret River – Shire	8		8				3				1	12
Bassendean – Town	2									2	1	3
Bayswater – City	11	2								1	8	11
Belmont – City	1		1					1			4	6
Bridgetown – Greenbushes – Shire	1		1									1
Broome – Shire	4					3					1	4
Bunbury – City	4											0
Busselton – Shire	4		1			1		2	1	4		9
Cambridge – Town	9	1							1	1		3
Canning – City	1										1	1
Chapman Valley - Shire	0		2									2
Chittering – Shire	0		1									1
Claremont – Town	4		1					2		2	1	6
Cockburn – City	7	1								1	1	3
Collie - Shire	3		1								2	3
Cottesloe - Town	1						1					1
Dardanup – Shire	0		1									1
Denmark – Shire	3										2	2
Donnybrook/Balingup – Shire	7		2							1	4	7
Dumbleyung - Shire	1			1								1
East Fremantle – Town	3		3				1	1	1			6
Esperance – Shire	2		1		1				1			3
Fremantle – City	0							1	1	1	3	6
Geraldton – City	2	1		1								2
Gosnells – City	11				1	1		3	2			7
Greenough – Shire	1							1	1	3		5
Halls Creek - Shire	4											0
Harvey – Shire	1		1									1
Jerramungup - Shire	2		2									2
Joondalup – City	5	1				3				1	2	7
Kalamunda – Shire	17		4			1					7	12
Kalgoorlie – Boulder – City	1								1			1
Kwinana – Town	1				1							1
Mandurah – City	12						1			3	8	12
Manjimup – Shire	2		2						1		2	5
Melville – City	10		2			3		1	2	4	6	18
Mundaring – Shire	8		2						1		2	5
Nannup – Shire	5		2				3					5
Narrogin – Town	5								1			1
Nedlands – City	3								1		7	8
Northampton – Shire	3		3									3
Perth – City	7		3	1			1			1		6
Pingelly - Shire	1											0
Port Hedland – Town	3		3									3
Rockingham – City	7				1	1					3	5



	Allegations received	Finalised at initial stage					Finalised by completed investigation or review					Allegations finalised
		No jurisdiction	Discretion exercised	Withdrawn or not proceeded with	Finalised to satisfaction of complainant	Referred back to agency	Withdrawn or not proceeded with	Could not be determined	Sustained partly	Sustained wholly or substantially	Not sustained	
Sandstone – Shire	0										2	2
Serpentine/Jarrahdale – Shire	11		2						1		7	10
South Perth – City	5						2		1	1		4
Stirling – City	12		1	1							10	12
Subiaco – City	4		2							2		4
Swan – City	8		2						1	3	5	11
Victoria Park – Town	5		1									1
Vincent – Town	7		3								4	7
Wagin - Shire	3							1			1	2
Wanneroo – City	6			1		1					1	3
West Arthur – Shire	0									1		1
<b>Sub Totals</b>	<b>263</b>	<b>6</b>	<b>61</b>	<b>5</b>	<b>3</b>	<b>15</b>	<b>15</b>	<b>8</b>	<b>20</b>	<b>33</b>	<b>106</b>	<b>272</b>
Organisations not within jurisdiction	131	131										131
<b>Grand Totals</b>	<b>3472</b>	<b>256</b>	<b>630</b>	<b>136</b>	<b>155</b>	<b>364</b>	<b>225</b>	<b>177</b>	<b>157</b>	<b>354</b>	<b>1321</b>	<b>3775</b>

## Outreach activities

As an office, we are committed to improving our accessibility to the citizens of Western Australia. One way we do this is through our program of outreach activities. In the reporting period, this has involved a number of activities, including:

- Regional visits, including visits to Albany, Derby, and Broome
- Talks to a range of community groups about the role and powers of the Ombudsman
- Presentations to agencies under our jurisdiction to improve their awareness of the Ombudsman's expectations in terms of complaint handling standards and to offer guidance on how to respond to Ombudsman investigations
- Presentations and keynote speeches at conferences.

Each of these activities provides us with an opportunity to raise awareness of the role of the office and how the Ombudsman endeavours to improve public confidence in the accountability of the public sector of Western Australia. We also receive valuable feedback about our performance as well as insight into issues of concern to citizens in each location.



# Our performance

This chapter contains the material required by the *Financial Administration and Audit Act 1985* and *Treasurer's Instruction 904* – which require all government agencies to identify desired outcomes and outputs and to measure and report on the extent to which they have been achieved and delivered.

## Mission

Our mission is:

***To assist the Parliament of Western Australia to be confident that the public sector of the State is accountable for, and is improving the standard of, administrative decision-making, practices and conduct.***

To achieve this, we aim to provide effective and efficient systems for handling complaints received about the administrative actions and conduct of government agencies, thereby identifying the underlying causes of complaints and making recommendations for changes to procedures, practices, policies or legislation which will prevent similar problems recurring.

## Key Performance Indicators

The performance indicators for the office focus on two key aspects:

- Effectiveness - the extent to which we have been able to provide assistance to complainants and to influence agencies to improve their practices and procedures
- Efficiency - how quickly and cost-effectively we are able to deal with complaints.

The Key Performance Indicators for the past year are set out in the following pages, followed by the Auditor General's opinion regarding them. Following the Auditor General's opinion is information about the performance targets which were contained in the 2002/2003 Budget Statements. That information is not subject to audit by the Auditor General.

## **Key Performance Indicators**

The desired outcome from the activities of the office is that the public sector of Western Australia is accountable for, and is improving the standard of, administrative decision-making, practices and conduct.

To achieve this outcome the office aims to provide effective and efficient systems for handling complaints received about the administrative actions and conduct of government agencies, thereby identifying underlying causes of complaints and making recommendations for changes to procedures, practices, policies or legislation which will prevent similar problems recurring.

The work of the office is performed via the following three output groups:

### **Police Service and railway special constables**

Provide an effective and efficient system of investigating, and reviewing the adequacy of internal investigations of, complaints about the Police Service and railway special constables.

### **Other Public Sector Organisations**

Provide an effective and efficient system of investigating complaints about public sector organisations other than the Police Service and railway special constables.

### **Telecommunications Interception Audit**

Perform the duties of Principal Inspector and Inspectors under the *Telecommunications (Interception) Western Australia Act 1996*.


## **Key Effectiveness Indicators**

The key effectiveness indicators of the office report on the extent to which we have been able to provide assistance to complainants and have agencies improve their practices and procedures.

### ***Police Service and railway special constables***

A total of 623<sup>i</sup> allegations were brought forward from 2001/2002 and a further 1,594 were received during the year. 1,775 allegations were finalised, and of these, assistance to the complainant (by way of apology, action expedited, act of grace payment, monetary charge reduced/withdrawn/refunded/rebate given, reversal or significant variation of original decision, explanation/reason provided by agency, criminal/disciplinary/infringement charge reduced or withdrawn, referral to another appropriate agency, or other action to assist the complainant) was provided in respect of 896 allegations.

	1999	2000	2001	2002	2003
Percentage of allegations finalised where complainants received assistance <sup>ii</sup>	59%	70%	43%	47%	50%
Number of improvements to practices and procedures <sup>iii</sup>	14	15	97	165	79
Number of allegations where Police or Railways took further action following a review of the agency internal investigation	96	110	141	78	19
<b>Other Public Sector Organisations</b>					
A total of 605 <sup>i</sup> allegations were brought forward from 2001/2002 and a further 1,878 were received during the year. 2,000 allegations were finalised and assistance to the complainant (by way of apology, action expedited, act of grace payment, monetary charge reduced/ withdrawn/ refunded/ rebate given, reversal or significant variation of original decision, explanation/reason provided by agency, criminal / disciplinary / infringement charge reduced or withdrawn, referral to another appropriate agency, or other action to assist the complainant) was provided in respect of 823 allegations.					
	1999	2000	2001	2002	2003
Percentage of allegations finalised where complainants received assistance	75%	79%	62%	41%	41%
Number of improvements to practices and procedures	46	90	122	118	72
<b>Key Efficiency Indicators</b>					
Key efficiency indicators cover the time taken to deal with complaints and the cost of the various outputs and activities.					
<i>Police Service and railway special constables</i>	1999	2000	2001	2002	2003
Average time taken to finalise allegations (days)	121	130	148	162	119
Allegations finalised per full-time equivalent staff member <sup>iv</sup>	165	153	143	187	161
Percentage of allegations finalised in less than three months	51%	54%	50%	44%	56%
Percentage of allegations on hand at 30 June less than three months old	39%	44%	41%	42%	43%
Cost per finalised allegation	\$513	\$606	\$672	\$521	\$617

<i>Other Public Sector Organisations</i>	1999	2000	2001	2002	2003
Average time taken to finalise allegations (days)	94	73	72	86	108
Allegations finalised per full-time equivalent staff member	112	128	118	129	118
Percentage of allegations finalised in less than three months	65%	77%	77%	69%	69%
Percentage of allegations on hand at 30 June less than three months old	57%	43%	57%	35%	34%
Cost per finalised allegation	\$628	\$676	\$787	\$715	\$851
 <i>Telecommunications Interception Audit</i>	 1999	 2000	 2001	 2002	 2003
Total cost of activity	\$70,038	\$49,344	\$44,499	\$40,095	\$44,984
<p>I hereby certify that the performance indicators are based on proper records, are relevant and appropriate for assisting users to assess the Parliamentary Commissioner for Administrative Investigations' performance, and fairly represent the performance of the Parliamentary Commissioner for Administrative Investigations for the financial year ended 30 June 2003.</p>					
					

<sup>i</sup> This number differs from the number that could have been calculated from the numbers contained in the 2002 Annual Report, and reflects the deletion and creation of certain allegations in the database after 30 June 2002 that had been received prior to that date. For Police/Railways that number was 447 allegations and for Other Public Sector Organisations that number was 576.

<sup>ii</sup> The figures for 1999 and 2000 relate only to those allegations that were not finalised by way of a review of an internal investigation by Police or Railways and, therefore related only to a minority of allegations finalised. The figures for 2001, 2002 and 2003 relate to all allegations finalised by any means and, therefore better reflects the work of the office. For that reason the 1999 and 2000 figures are not directly comparable with the figures for the subsequent years.

<sup>iii</sup> The figures for 1999 and 2000 reflect only changes that were recommended by the office. The figures for 2001, 2002 and 2003 include changes recommended and changes made voluntarily by the agency without a recommendation having to be made.

<sup>iv</sup> The full-time equivalent (FTE) staff figure used for the purpose of this calculation includes investigating officers, an Assistant Ombudsman and a proportion of corporate services staff, the Ombudsman and Deputy Ombudsman.



**AUDITOR GENERAL**

**INDEPENDENT AUDIT OPINION**

**To the Parliament of Western Australia**

**PARLIAMENTARY COMMISSIONER FOR ADMINISTRATIVE INVESTIGATIONS  
PERFORMANCE INDICATORS FOR THE YEAR ENDED JUNE 30, 2003**

**Audit Opinion**

In my opinion, the key effectiveness and efficiency performance indicators of the Parliamentary Commissioner for Administrative Investigations are relevant and appropriate to help users assess the Parliamentary Commissioner's performance and fairly represent the indicated performance for the year ended June 30, 2003.

**Scope**

***The Parliamentary Commissioner's Role***

The Parliamentary Commissioner is responsible for developing and maintaining proper records and systems for preparing performance indicators.

The performance indicators consist of key indicators of effectiveness and efficiency.

***Summary of my Role***

As required by the Financial Administration and Audit Act 1985, I have independently audited the performance indicators to express an opinion on them. This was done by looking at a sample of the evidence.

An audit does not guarantee that every amount and disclosure in the performance indicators is error free, nor does it examine all evidence and every transaction. However, my audit procedures should identify errors or omissions significant enough to adversely affect the decisions of users of the performance indicators.

A handwritten signature in cursive script, appearing to read 'D D R Pearson'.

**D D R PEARSON**  
**AUDITOR GENERAL**  
October 20, 2003

### Other Performance Measures

The following are the performance targets contained in the 2002/2003 Budget Statements and the actual performances achieved.

	<i>Target</i>	<i>Actual</i>
<i>Police Service and railway special constables</i>		
<b>Quantity</b>		
Allegations finalised	2,200	1,775
<b>Timeliness</b>		
Average time taken to finalise an allegation (days)	160	119
<b>Cost</b>		
Cost per finalised allegation	\$614	\$617
<i>Other Public Sector Organisations</i>		
<b>Quantity</b>		
Allegations finalised	1,900	2,000
<b>Timeliness</b>		
Average time taken to finalise an allegation (days)	90	108
<b>Cost</b>		
Cost per finalised allegation	\$780	\$851
<i>Telecommunications Interception Audit</i>		
<b>Quantity</b>		
Audit reports completed in accordance with legislation	2	2
<b>Timeliness</b>		
Statutory time limits complied with	100%	100%



# Police Service and Railways Commission special constables

The Police team assists in the achievement of the Ombudsman's mission by ensuring that complaints about the Western Australia Police Service and Western Australian Government Railways Commission special constables are efficiently and effectively investigated.

In the last quarter of the 2000/2001 financial year the Police team developed a new business plan in order to improve efficiency and effectiveness. The plan identified two main work activities:

- to review and determine the adequacy of all Police and Railways Commission internal investigations (the review program)
- to identify, investigate and report on significant issues involving Police and Railways Commission special constables (the investigation program).

In the subsequent two years the team achieved improvements in the efficiency and effectiveness of these two programs. The achievements included the following:

- five reports tabled in the Parliament
- allegations finalised per full time equivalent staff member increased by 13% (from 143 in 2000/2001 to 161 in 2002/2003)
- cost per allegation finalised declined by 8% (from \$672 in 2000/2001 to \$617 in 2002/2003)
- allegations on hand declined by 57% (from 1,034 on 30 June 2001 to 447 on 30 June 2003).

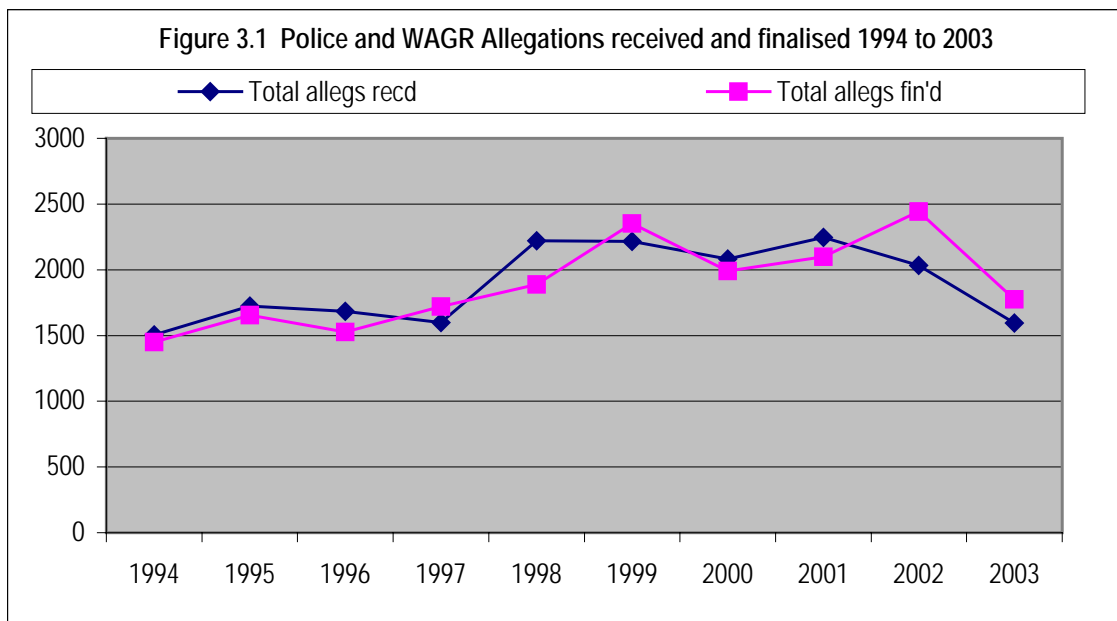
The work undertaken during the 2000/2001 and 2001/2002 financial years to reduce the number of allegations on hand meant that the workload facing the team at the beginning of 2002/2003 was significantly less than in previous years. This, together with a decline in allegations received, meant that the police team handled fewer allegations than in previous years. The number of full time equivalent staff employed in the Police team reduced from 14 to 11, with staff resources being reallocated to the General team.

In the reporting period the team's investigation program was as follows:

- tabling of two reports in the Parliament - *The Ombudsman's Law Enforcement Redress Guidelines* and *An Investigation into the Police Response to Assault in the Family Home*
- visiting each police district and reviewing their internal investigation case management practices. The information gathered formed the basis of a presentation and statement of information to the Royal Commission Into Whether There Has Been Any Corrupt or Criminal Conduct by Western Australian Police Officers (the Police Royal Commission)
- providing a detailed submission to the Police Royal Commission on the Ombudsman's experience in dealing with complaints about police in Western Australia.

## Allegations received and finalised

Figure 3.1 shows the nine-year trend for allegations received and finalised. A total of 1,184 complaints containing 1,594 allegations about police or railways special constables were received during 2002/2003. A total of 1,775 allegations were finalised.



This year was the second in a downward trend in the number of allegations received - by 17% in 2001/2002 and by 25% in 2002/2003. Although no definitive statement can be made as to the cause of this decline, we believe it would have been influenced by the commitment made by the Police Service to promote and support ethical conduct. In this regard the publication of the Police Service Code of Conduct in December 2002 and improvements in the standard of internal investigations in recent years are relevant. However, there may be other factors behind the decline - for example, the impact of the Police Royal Commission.

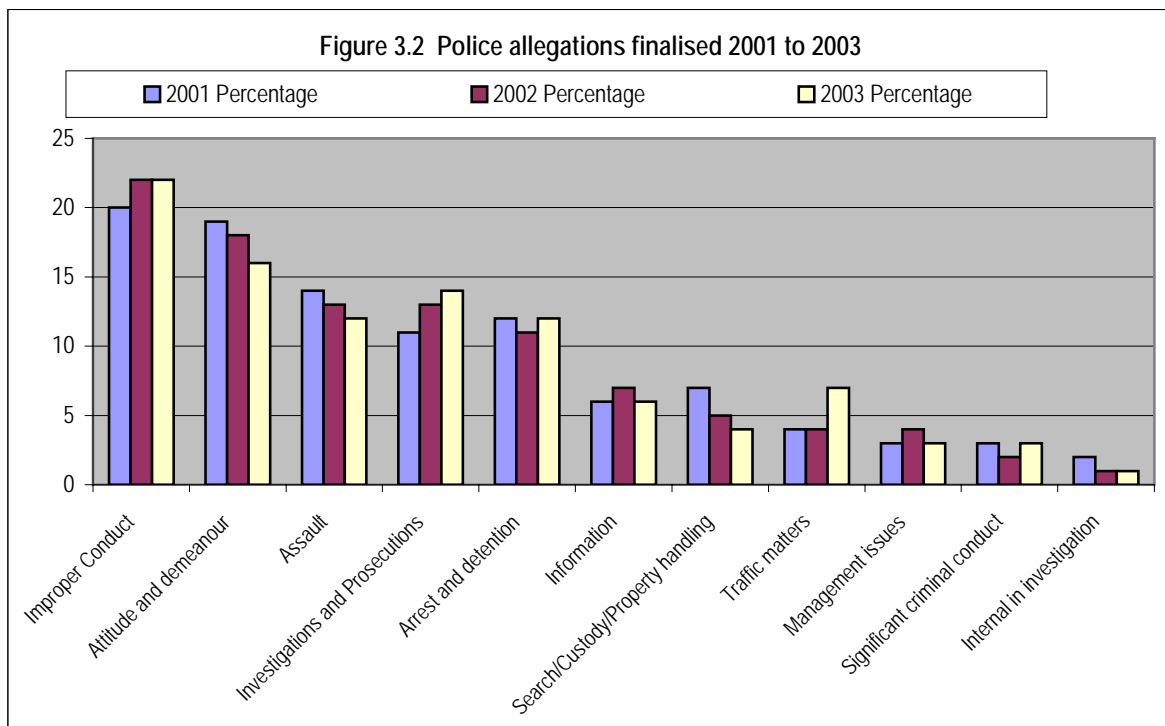
Allegations finalised declined by 25%, after increasing by 13% in 2001/2002. For the second year in a row, allegations finalised exceeded allegations received so that the number of allegations on hand was reduced to 440.

Of the 1,775 allegations finalised, 1,753 related to the Police Service. These allegations were classified as follows:

- **improper conduct** - e.g. misuse of office, regulatory breaches
- **attitude and demeanour** - e.g. abusive remarks, disrespect
- **assault** - e.g. common assault, improper use of pepper spray
- **investigations and prosecutions** - e.g. forced confessions, failure to prosecute
- **arrest and detention issues** - e.g. personal searches, improper detention
- **information** - e.g. disclosure of confidential information, inaccurate records

- **search/custody/property handling** - e.g. unlawful detention, loss of property
- **traffic matters** - e.g. issue of infringements, manner of driving
- **management issues** - e.g. administration of warrants, condition of cells
- **significant criminal conduct** - e.g. theft, fraud
- **internal investigation of complaints** - e.g. failure to record complaints, inadequate investigation.

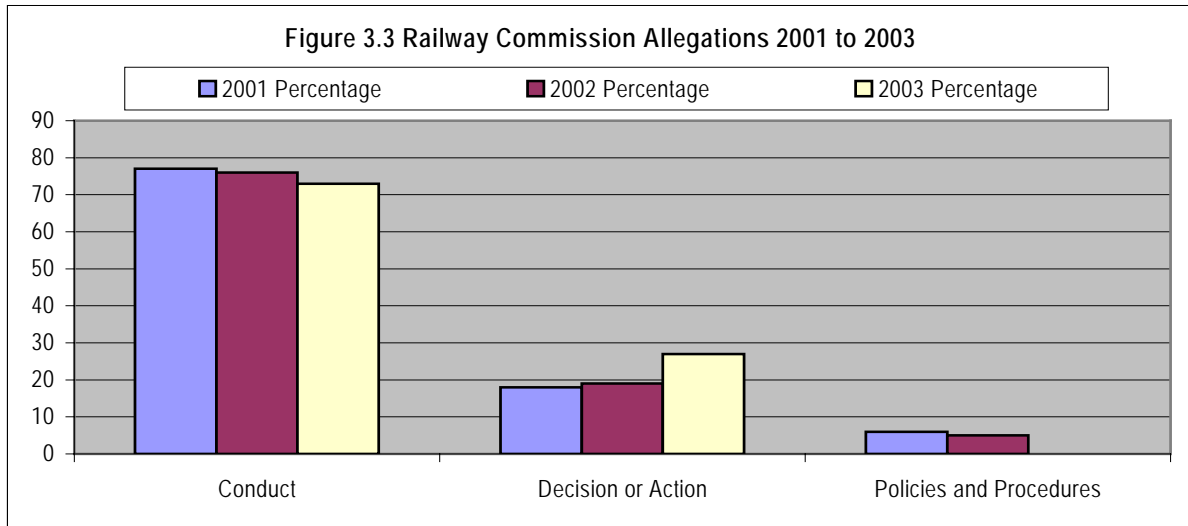
Figure 3.2 shows the percentages of allegations about police finalised on a category basis over the past three years.



Twenty allegations about railways special constables were finalised. Because of their relatively small numbers allegations about railways special constables were grouped into three broad categories:

- **conduct** - e.g. excessive force, demeanour
- **decision or action** - e.g. infringement notice, improper arrest
- **policies and procedures** - e.g. delay in investigation, infringement policy.

Figure 3.3 shows the percentages of allegations about railways special constables finalised on a category basis over the past three years.



## The review program

This program constitutes the bulk of the Police team's work. The aim of the review program is to enhance the accountability of the Police Service and the Railways Commission by reviewing internal investigations to ascertain whether:

- all reasonable and relevant issues highlighted by complainants, including specific allegations and related matters, have been considered
- all relevant and reasonably available evidence has been gathered
- the evidence gathered has been logically analysed and reasonable conclusions reached
- conclusions and outcomes have been reasonably communicated to complainants
- efficient and effective investigating practices have been followed and documented in ways that allow external review.

This process includes:

- conducting our own inquiries into issues that have not been properly addressed during the internal investigation
- consulting with internal investigators at an early stage of their investigations to provide them with advice and support
- actively seeking out the opinions of complainants by interviewing them and by recording and considering their responses to a standard questionnaire
- consulting and negotiating with Police Service and Railways Commission management about internal investigation outcomes.

Inadequate internal investigations are returned for further work and then reviewed a second time.

Reviews of internal investigations into 1,457 allegations were conducted during the year. The breakdown between Police Service and the Railways Commission reviews and their adequacy is shown in Table 3.1.

TABLE 3.1

	Adequate	Inadequate	Total
All first reviews	1,397 (98%)	33 (2%)	1,430
All second reviews	25 (93%)	2 (7%)	27
<b>Total reviews</b>	<b>1,422 (98%)</b>	<b>35 (2%)</b>	<b>1,457</b>
First reviews Police Service	1,376 (98%)	32 (2%)	1,408
Second reviews Police Service	25 (93%)	2 (7%)	27
<b>Total Police Service reviews</b>	<b>1,401 (98%)</b>	<b>34 (2%)</b>	<b>1,435</b>
First reviews Railways Commission	21 (95%)	1 (5%)	22
Second reviews Railways Commission	0 (0%)	0 (0%)	0
<b>Total Railways Commission reviews</b>	<b>21 (95%)</b>	<b>1 (5%)</b>	<b>22</b>

Comparing the data in Table 3.1 with data from the previous two years reveals an encouraging positive trend in the adequacy of Police Service and Railways Commission internal investigations:

- the overall level of adequacy of Police Service and Railways Commission internal investigations improved from 91% 2000/2001 to 94% in 2001/2002 and 98% in 2002/2003
- the level of adequacy for Police Service internal investigations improved from 91% in 2000/2001 to 94% in 2001/2002 and 98% in 2002/2003
- the level of adequacy of Railways Commission internal investigations improved from 83% in 2000/2001 to 89% in 2001/2002 and 95% in 2002/2003.

### Reviews of Police Service Local Complaint Resolutions (LCRs)

LCRs involve allegations about minor misconduct. The LCR process is an informal one that focuses on speedy resolution. In 2002/2003 LCRs accounted for 30% of police internal investigations reviewed, from 37% in 2001/2002 and 40% in 2000/2001.

Consistent with the downwards trend in the adequacy of police internal investigations, almost 100% of LCRs reviewed were found to be adequately investigated, as compared to 98% in 2001/2002 and 95% in 2000/2001.

The time taken to complete LCRs is important, given the emphasis on speedy resolution. On average it took police 55 days per allegation to finalise LCRs. This represents a decrease of 15 days from the 2001/2002 average of 70 days. However, this figure exceeds the 30 days target agreed between the Ombudsman and the Police Service.

### Reviews of Police Service major matters

Major matters involve more serious allegations. The investigation process is focussed on gathering and analysing evidence to establish the facts. Major matters accounted for 70% of the internal investigations reviewed.

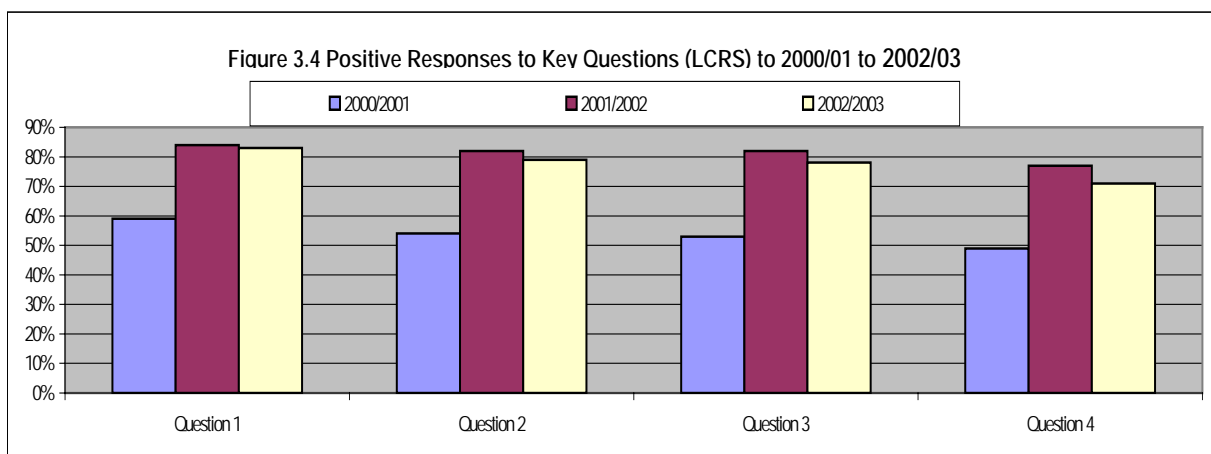
Consistent with the positive trend in the adequacy of police internal investigations, 97% of major matters reviewed were found to be adequately investigated, as compared to 92% in 2001/2002 and 89% in 2000/2001. On average it took police 182 days to finalise internal investigations into major matters. This is consistent with the time taken in 2001/2002 (183 days). The target agreed between the Ombudsman and Police Service for major matters is 120 days.

**What do complainants think?**

All complainants are sent a questionnaire seeking their views about the adequacy and timeliness of the internal investigation into their complaint in relation to four key areas. The following questions are posed:

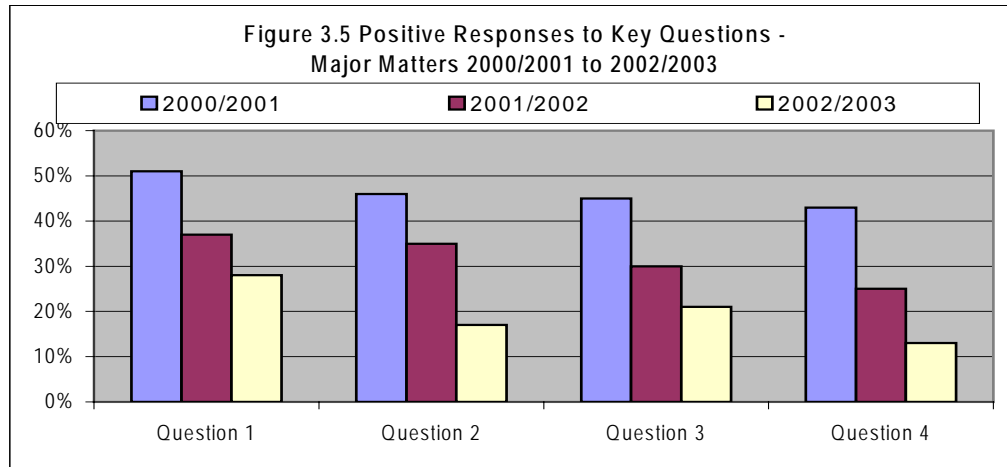
- Question 1** Are you satisfied with the process followed by police to investigate your complaint?
- Question 2** Do you think that all of the issues that you raised were dealt with during the police investigation?
- Question 3** Are you satisfied that all relevant information and evidence was taken into account during the police investigation?
- Question 4** Are you satisfied that the conclusions reached and the actions taken by police (if any) as a result of your complaint were appropriate?

For LCRs, responses were received in relation to 242 allegations (56%). Figure 3.4 illustrates the trend in positive responses to these questions over the past three years. The overall trend indicates that the LCR process appears to be well accepted by complainants.



Complainants' opinions about the time taken by the Police Service to complete LCRs were also canvassed in the questionnaire. Of those who responded, 88% said that they were happy with the time taken.

For major matters responses were received in relation to 244 allegations (24%). Figure 3.5 shows the percentage of respondents who responded positively to the four key questions over the last three years. Unlike LCRs, there appears to have been a consistent decline over the past three years in the way complainants have viewed internal investigations into major matters.



### Overall observations about Police Service internal investigations

Over the past three years the review program has yielded mixed results about Police Service internal investigations. On the one hand, the trend in our assessment of the adequacy of Police Service internal investigations is positive. In terms of LCRs the trend in those complainants who responded to our questionnaire seems to also be positive. On the other hand, our data indicate a declining satisfaction of complainants for major matters as well as an increase in the time taken by police to complete internal investigations, particularly major matters.

At present we review internal investigations in order to ascertain whether they are 'adequate' or 'inadequate'. This process attaches significance to whether or not further investigation is likely to result in a different outcome. However, this assessment could become more meaningful by the inclusion of qualitative assessments about important issues such as the following:

- the impact of the time taken
- the proportionality of the resources expended in the investigation
- the extent to which a structured and standardised investigative approach was utilised
- the quality of interviews conducted
- the standard of communication with complainants, witnesses and police officers involved.

The current review process has been an effective tool over a number of years in assisting to improve the standard of Police Service internal investigations. However, in our view it is now appropriate to re-evaluate this tool. The factors mentioned above should be considered in this re-evaluation.

We remain concerned about the matter of timeliness in particular, and discussions with the Police service are continuing on how to address this ongoing issue.

### Reviews of complaints about Railways Commission special constables

There is no LCR equivalent in Railways Commission internal investigations. They all involve an investigative process aimed at establishing facts from the available evidence. Railways Commission internal investigations accounted for 2% of the internal investigations reviewed. Of those reviews, 95% were found to be adequately investigated, compared to 89% in 2001/2002.

On average it took the Railways Commission 170 days per allegation to finalise their internal investigations. Although this represents a 16 day decline from the 154 days average in 2001/2002, it remains significantly better than the 223 day average in 2000/2001.

As noted in last year's annual report the security function of the Railways Commission underwent important changes during 2001/2002. Since implementing these changes the number of allegations made about special constables has dropped significantly - from 88 in 2000/2001 to 14 in 2002/2003.

### The investigation program

The Police team's investigation program is intended to add value to the review process by focussing on significant issues. A broad view of what constitutes an investigation is taken, given that the *Parliamentary Commissioner Act 1971* enables the Ombudsman to conduct investigations in such manner as she thinks fit. During the year we undertook investigations into ten issues under this program, as follows:

- **Assault in a police cell**

The complainant alleged that after being arrested and placed in a cell, a police officer entered the cell and assaulted him. The evidence of other police officers at the station was that they placed the complainant in the cell and left the vicinity. Subsequently they heard a commotion and returned to discover the officer complained about in the cell with the prisoner and that the complainant had suffered an injury in a confrontation with the officer.

An internal investigation cleared the officer. However, after our review of the evidence we sought advice from the Director of Public Prosecutions. He advised that a *prima facie* case of assault existed, but that there was no reasonable prospect of obtaining a conviction and therefore, that it was not in the public interest to proceed with a prosecution.

- **Threatening phone calls**

The complainant alleged that a police officer obtained her telephone number in the course of his official duties. Subsequently, he telephoned her on a number of occasions and made sexually abusive and threatening remarks to her.

Prior to police finalising an internal investigation into the matter, the officer in question resigned. The internal investigation did not include an investigation into the criminality of the officer's alleged actions. However, as a result of our involvement a criminal investigation was undertaken.

- **Indecent assault**

The same police officer involved in the threatening phone calls allegation was the subject of an allegation that he attended the house of another woman in the course of his official duties. Later, when off duty, he re-attended her house and told her that he was doing 'follow up'. He allegedly made sexually offensive comments to her and then allegedly indecently assaulted her.

As indicated above, the officer resigned prior to police finalising their internal investigation into the matter. The internal investigation did not include an investigation into the criminality of the officer's alleged actions. However, as a result of our involvement a criminal investigation was undertaken.



▪ **Management of sexual misconduct allegations**

Inquiries into the two matters above highlighted potential problems in the management of the officer involved while he was the subject of the internal investigations. We decided to conduct a formal investigation into the issue. However, the Commissioner of Police subsequently decided to conduct criminal investigations into the allegations and it became apparent that the management issues involved were not widespread. In the circumstances, we decided to discontinue the investigation.

▪ **Wrongful disposal of seized property**

Police seized property in the course of executing a search warrant and, after completing their inquiries, decided that the property should be returned. In the meantime the complainant, who was not the occupier of the premises searched, claimed ownership of some of the items seized by police. Notwithstanding his claim, police returned the property to the occupier of the premises from which it had been seized.

In circumstances such as this the appropriate course of action for police is to commence interpleader proceedings to determine ownership of the property. As a result of our involvement, police took the property back into their possession and commenced the necessary interpleader proceedings.

▪ **Case management of internal investigations**

The outcome of this investigation formed the basis of a presentation to the fourth Police Royal Commission round table conference and a subsequent statement of information. The investigation included visiting all police districts in the State in order to identify the factors hindering the efficient and effective completion of internal investigation files. The main factors we identified were:

- competing work priorities
- district workloads
- the tyranny of distance in remote areas
- the impact of leave and training arrangements
- local commitment
- uncertainty about the role of internal investigation coordinators
- lack of an internal investigation manual or kit
- administrative bottlenecks.

▪ **Unnecessary requirement that complainant attend police station**

The complainant was a serving police officer who wished to lodge a complaint about the conduct of another police officer. The complainant approached an inspector, who instructed the officer to attend a police station to lodge the complaint. The complainant did so, including providing a statement to an officer of similar rank about the incident. The complainant was embarrassed about attending the station and providing the statement.

Police procedure required the inspector to attend on the complainant, obtain the officer's complaint and forward it on to the Internal Investigation Unit. As a result of our involvement the error was acknowledged and the complainant was provided with an apology.

▪ **Formal recording and handling of an unfavourable report**

The complainants were two serving police officers who alleged that they had not been afforded procedural fairness in the process that led to unfavourable reports being placed on their personal files. We established that prior to placing the reports on their files, copies of the reports were sent to the officers so that they could provide reasons as to why the reports should not proceed. They did

so and, after considering their views, the district superintendent recommended that the reports should not proceed.

The district officer was supported by the regional commander, but was overruled by the Assistant Commissioner (Professional Standards) - the only officer delegated by the Commissioner of Police to decide whether or not such reports should proceed. The Assistant Commissioner's decision was reviewed by another Assistant Commissioner, who agreed with it. In the circumstances, we did not sustain the complaint.

The two final investigations, 'Provision of redress' and 'Police procedures relating to assault in the family home', resulted in reports being tabled in the Parliament and are discussed below.

### Reports tabled in Parliament

Section 27 of the *Parliamentary Commissioner Act 1971* empowers the Ombudsman to lay before each House of Parliament reports on any matters arising in connection with the exercise of her functions. Two investigations completed during the year resulted in reports being tabled in the Parliament.

#### ***The Ombudsman's Law Enforcement Redress Guidelines***

This report, tabled in June 2003, sets out a framework to assist law enforcement managers make decisions about resolving complainants' sense of grievance so that law enforcement agencies can better manage their business, improve the transparency of their processes, and ultimately enhance public confidence in their operations.

The framework outlined in this document is based on the ethical principles outlined in the Police service and Railways Commission codes of conduct.

By making good in response to a complaint from an aggrieved person, law enforcement agencies have an excellent opportunity to reduce the risk of any erosion of public confidence in them. By providing fair, reasonable and just remedies, agencies may be able to turn complainants into people who support the work of law enforcement officers. In our view it is essential that, when the standard of service is unsatisfactory and the law enforcement agency has in some way contributed to this, it should provide redress to remedy the situation.

Both the Commissioner of Police and the Commissioner for Railways agreed with these principles and adopted the guidelines outlined in the report .

#### ***The Police Response to Assault in the Family Home***

This report was tabled on 5 September 2003, but the substantive work for the matter was conducted during the reporting period, and so we have included reference to it here.

The report examines the response by police to assaults that occur in the family home. The investigation method employed was primarily designed to help us understand the ways in which victims and other stakeholders such as women's refuges perceived the police response. We considered relevant police policies and procedures and conducted interviews with police, staff of women's refuges and other agencies and victims of assault in the family home in regional and metropolitan areas across Western Australia. We also conducted an extensive literature search.

Seven recommendations were made in response to the problems highlighted by this investigation. All of these recommendations were accepted by the Commissioner of Police. They were as follows:

1. (a) the Police Service formulate a Minimum Standards Protocol to guide police officers attending incidents of Assault in the family home, and do so in consultation with refuge workers in the metropolitan and regional areas of Western Australia; and  
(b) once such a Protocol has been developed, an appropriate training program be established at the WA Police Academy for police recruits and a refresher training program addressing the requirements of the Protocol be provided for serving police officers
2. the Police Service revise and clarify existing policy and guidelines relating to the charging of perpetrators of Assault in the family home and promulgate these once revised
3. (a) the Police Service clarify its guidelines for obtaining and serving Violence Restraining Orders (VROs) and ensure that these include a requirement that victims are kept informed of any failed attempts to effect service; and  
(b) review current policy and guidelines in relation to the issue of prompt police response to alleged breaches of VROs or bail conditions in cases of assault in the family home
4. the Police Service reinforce to all officers the need to adhere to police policy relating to Assault in the family home and clarify whether 'zero tolerance' forms part of this policy
5. the Police Service review Domestic Violence Liaison Officer recruitment procedures, training programs support, and allocation of resources to ensure consistency of approach and allow sufficient flexibility to target areas of need
6. (a) the Police Service review whether Family Incident Reports are the most effective tool for gathering data relating to assaults that occur in the family home; and  
(b) review current case management practices in light of best nationwide case management practices
7. the Police Service explore with Government the possibility of developing legislation for a system of Cautionary Restraining Notices or similar.

### **Royal Commission Into Whether There Has Been Any Corrupt or Criminal Conduct by Western Australian Police Officers**

An important aspect of our work during 2002/2003 involved contributing to the Police Royal Commission. The Police Royal Commission impacted on us in the following ways:

- requests for information from lawyers representing Police Officers who may be required to appear before the Royal Commission - four requests dealt with
- requests from former complainants for information regarding matters that may be examined by the Royal Commission - two requests dealt with
- notices to produce documents or other things issued by the Royal Commission pursuant to section 6 of the *Royal Commission (Police) Act 2002* - 12 notices dealt with
- briefings by Ombudsman officers to Royal Commission officers on matters that had been previously investigated by the Ombudsman's Office - briefings for two investigations provided
- attendance by the Ombudsman or her delegate at round table conferences with Royal Commission officers - attendance at four conferences
- compilation of submissions and papers for the Royal Commission - three submissions provided.

## **The Future of Police Oversight in Western Australia**

The Ombudsman acquired the jurisdiction to investigate complaints about police in 1985. Since that time the system for dealing with complaints about police has evolved from one driven by complainant satisfaction or dissatisfaction to one driven by investigative rigour. Concurrently, there have been fundamental changes in the commitment of the Police Service to internal investigations.

The creation of the proposed Corruption and Crime Commission will mark a new era in the police oversight system. As well as dealing with alleged or suspected corruption the proposed Commission will assume the oversight role currently discharged by the Ombudsman.

Although the Ombudsman's role has since 1985 included investigating and reviewing internal investigations into process corruption<sup>i</sup>, the Ombudsman is neither a corruption fighter nor an investigator of criminality - two important aspects of the role of the proposed Corruption and Crime Commission.

As described by the NSW Ombudsman, Mr Bruce Barbour, the role of the Ombudsman in overseeing police has traditionally involved:

- overseeing investigations into alleged or suspected police misconduct
- helping the Police Service improve the way it investigates misconduct
- keeping the complaints system under scrutiny
- directly investigating issues of significance and/or public interest
- working with the Police Service to utilise its complaint handling system to improve organisational performance.

Combining this role with the corruption fighting and criminal investigation role of the proposed Corruption and Crime Commission will present interesting challenges for the management of the new organisation. I look forward to the achievements of the Ombudsman's office since 1985 forming strong foundations for the ongoing oversight and review functions which will be taken up by the new body. Once the legislation is settled and the final form of the Corruption and Crime Commission determined, my office will work with this body to ensure the smooth transition of these functions.

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<sup>i</sup> As defined by The Hon. Justice JRT Wood – *Royal Commission into the NSW Police Service: Final Report, Volume 1: Corruption*, Government of the State of New South Wales, May 1997, page 26.

## Other public sector organisations

### Complaints

In the reporting period 1,878 allegations concerning public sector agencies other than the Police Service and the WA Government Railways Commission were received, compared to 2,059 allegations received in the previous year. This represents a decrease of approximately 9%. A total of 605 allegations were brought forward from 2001/2002, compared to 574 the previous year.

The General Public Sector Team finalised 2,000 allegations during the year, which represents a small decrease in the number finalised (approximately 3%) compared to the 2,057 allegations finalised in the previous year. The number finalised exceeded the team's target for the year of 1,900. The average time taken to finalise an allegation was 108 compared to the average time taken in the previous year (86 days), and was above our target of 90 days.

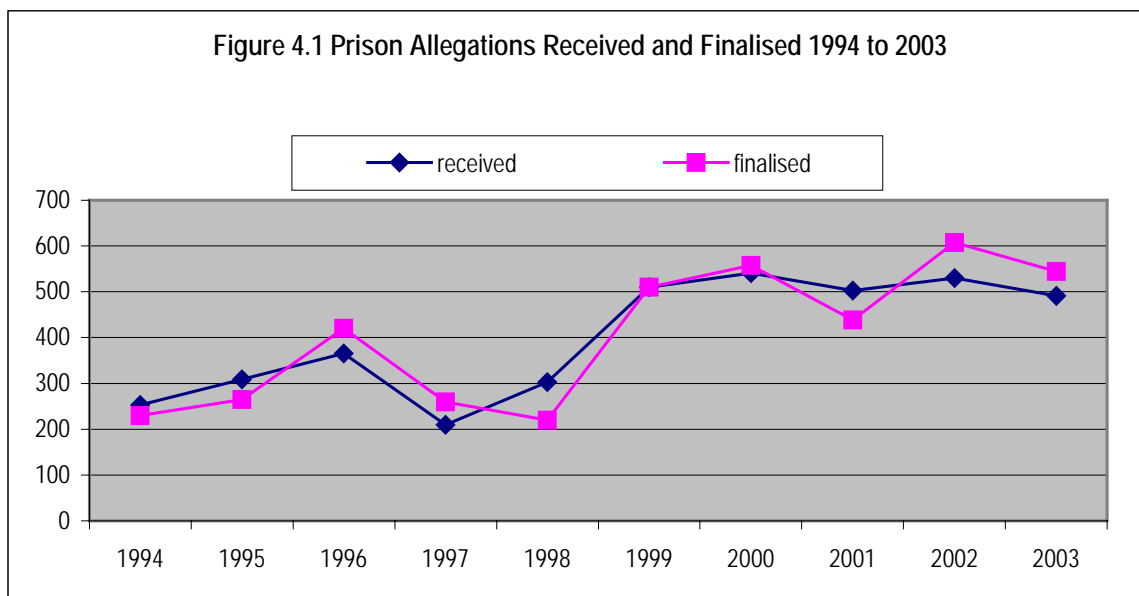
Details about allegations received on an agency by agency basis can be found at Table 1.5, page 8. The following information relates to those agencies about which the most allegations were received.

### Prisons

We received 484 complaints containing 491 allegations about prisons during the year. This represents a 2% decline in complaints received and a 7% decline in allegations received from last year.

Figure 4.1 shows the nine-year trend for allegations finalised, together with allegations received. This year the prisons team finalised 544 allegations. Although this represents a decline in allegations finalised from last year of 11%, allegations finalised exceeded allegations received for the second year in succession.

**Note** - Allegations received for 2001 may be slightly inaccurate due to anomalies in the recording of telephone queries.



In addition, we received 214 and finalised 238 telephone queries during the year. This compares with 234 telephone queries received and 222 finalised in 2001/2002, and 222 telephone queries received and 170 finalised in 2000/2001<sup>1</sup>.

Over the last three years telephone queries have constituted approximately 40% of the total number of complaint issues received. Over recent years we have invested considerable effort into making the Ombudsman more accessible to prisoners. This appears to be reflected in the significance telephone queries now play in the services we provide in the prisons area.

However, this service is not an alternative to our complaint handling program. Rather, we provide an information service to prisoners about how the issues affecting them might be resolved. This generally involves taking the following steps:

- If it is possible to resolve simple issues by making a telephone call to a prison then we will do so. Such calls often involve speaking to a person with the authority to resolve the problem. We then invite complainants to contact us again if their issues are not resolved.
- If the matter could more appropriately and efficiently be dealt with by a prison grievance system, we direct the complainant to the relevant system. This is likely to involve explaining to them how the system works and how to lodge a grievance.
- If it is a matter that should not be dealt with by a prison grievance system we direct the complainant to the appropriate agency, which, apart from our office, could be the Office of Health Review, the Inspector of Custodial Services, the Equal Opportunity Commissioner, the Attorney General and/or internal prison appeal systems. We endeavour to provide the necessary information and assistance to ensure that these matters find their way to the appropriate system.

## Offender management

Of the 705 allegations and telephone queries received during the year, 670 related to prisons (245 to Acacia Prison and 425 to prisons run by the Department of Justice); 24 to prison services or administration; and 11 to the prisoner transportation service provided by AIMS Corporation.

Table 4.1 shows the sources of allegations received for the past five years.

Prison	Allegations				
	1999	2000	2001	2002	2003
Acacia (AIMS)	-	-	1	177	245
Acacia (Dept. of Justice)	-	-	-	12	4
Albany	24	12	25	7	12
Bandyup	41	43	36	25	64
Banksia Hill	2	1	1	1	0
Broome	7	4	9	0	5
Bunbury	63	42	55	20	13
Casuarina	161	194	233	167	70
Eastern Goldfields	6	5	9	1	8
Greenough	20	21	32	18	16
Hakea Prison – Remand	17	29	55	21	2
Hakea Prison	69	73	133	166	159
Karnet	8	11	22	29	13
Nyandi	2	5	9	8	3

<sup>1</sup> Figures for 2000/2001 may be slightly inaccurate due to anomalies in the recording of telephone queries received

Pardelup	7	4	8	1	closed
Rangeview Remand Centre	-	-	5	0	0
Riverbank	8	5	2	1	closed
Roebourne	9	11	20	4	4
Wooroloo	21	9	11	24	37
Not allocated to a prison	45	72	30	66	50
<b>Total</b>	<b>510</b>	<b>541</b>	<b>696</b>	<b>748</b>	<b>705</b>

### Nature of allegations/telephone queries received

Table 4.2 shows the nature of allegations/queries received by category for the year. In 2001/2002, 60% of these were confined to six categories. This year, a more even spread occurred, with 60% being spread across ten categories.

TABLE 4.2		Nature of allegations/telephone queries received
		Allegations
Health services		91
Placement		86
Facilities and conditions		47
Prisoners' property		46
Discipline (incl. loss of privileges/prison charges)		34
Visits		31
Canteen/spends issues		31
Prison officer conduct (incl. failure to assist, harassment, threat or rudeness) – Department of Justice		38
Communication – telephones		28
Sentencing/parole issues		29
Prisoner employment		20
Food and diet		17
Prison officer conduct (incl. failure to assist, harassment, threat or rudeness) – AIMS		21
Security classification		16
Communication - mail		18
Separate confinement		12
Protection		11
Authorised absences / funerals		10
Drug detection (prisoners)		10
Rehabilitation programs		10
Education courses and facilities		9
Assault (by prison officer)		8
Assault (by AIMS officer)		5
Assault (by prisoner)		3
Individual Management Plan		3
Prisoner transport (AIMS)		2
Prison officer grievances		1
Other		68
<b>Total</b>		<b>705</b>

### Finalised allegations/queries

A total of 782 allegations and telephone queries were finalised during the year. Tables 4.3 and 4.4 show the outcome of allegations/queries dealt with.

TABLE 4.3	Manner in which allegations/queries finalised			
	AIMS – Prisoner Transport and Courts	AIMS – Acacia Prison	Dept. of Justice Prisons	Total
<b>Finalised without investigation</b>				
No jurisdiction	0	5	48	53
Discretion exercised not to investigate*	2	34	54	90
Withdrawn or not proceeded with	0	20	57	77
Finalised to satisfaction of complainant	1	45	56	102
Referred back to the agency	4	118	136	258
	7	222	351	580
<b>Finalised by completed investigation</b>				
Sustained wholly or substantially	3	7	12	22
Sustained partly	0	0	7	7
Not sustained	3	40	102	145
Could not be determined	1	8	16	25
Withdrawn or not proceeded with	1	2	0	3
	8	57	137	202
<b>Total allegations finalised</b>	<b>15</b>	<b>279</b>	<b>488</b>	<b>782</b>

\* 'Discretion exercised not to investigate' does not necessarily indicate that no enquiries about the matter raised were undertaken, nor does it imply that no assistance was provided.

TABLE 4.4	Assistance provided – allegations finalised by investigation		
	Voluntary	Formally recommended	Total
<b>Benefit for complainant</b>			
Act of grace payment made	0	1	1
Action/decision expedited	17	0	17
Apology	4	0	4
Explanation or reasons provided by agency	4	0	4
Reversal or significant variation of original action	7	0	7
Monetary charge reduced/withdrawn/refunded/rebated	1	0	1
Other	5	0	5
Explanation only			139
<b>Total allegations finalised by investigation</b>			<b>178</b>
<b>Changes to law, practice or procedure</b>			
Change policy/procedure	7	3	10
Improve record-keeping	2	1	3
Other change to system	4	0	4
Training issue	2	0	2
<b>Total</b>			<b>19</b>



### Prison interaction

As in previous years, there were high levels of interaction between the Ombudsman's office and prisons during the year. This included at least one visit to each of the regional prisons and fortnightly visits to all of the metropolitan prisons. Regular visits by Ombudsman staff to prisons involve a number of functions. These include:

- conducting investigations by analysing files and conducting interviews *in situ*
- monitoring the handling of grievances through prison grievance systems
- liaising with prison stakeholders such as peer support groups
- resolving issues with prison management.

In addition to prison visits we met regularly with members of the Department of Justice management team and conducted seminars with unit managers as part of several unit managers training courses.

Late in the financial year significant changes to the management of Acacia Prison occurred. Subsequently many issues associated with the timely completion of Acacia investigation files were addressed and resolved, and some improvements in complaint handling procedures at Acacia Prison became evident towards the end of the reporting period.

### Special projects and investigations

#### ▪ Urine Testing Procedures

In order to assist in dealing with the problem of illicit drug use in prisons, prisoners are sometimes required to submit urine samples for analysis. In the latter part of last year we received several complaints from prisoners about the way in which urine samples were collected. The main allegation raised was that the urine samples had been interfered with, resulting in them incorrectly indicating the existence of illicit drugs.

Our investigation indicated that two key elements in departmental procedures might not always have been strictly followed:

- the requirement that the prisoner providing the sample must observe the whole procedure
- the requirement that the urine sample must not leave the prisoner's sight until the containers are sealed and all participants have signed the paperwork.

We sought advice from senior scientific staff at the PathCentre on the means by which urine samples could be interfered with or adulterated. We ascertained that it would be very difficult to adulterate a sample by providing a prisoner with a sample jar into which some substance had been introduced. However, we also learned that there does not appear to be any foolproof method of ensuring that samples provided by prisoners are not subsequently substituted.

As a possible solution we suggested that prisoners be offered a choice between a number of complete test 'kits' in which all the necessary components for collection of a urine sample are enclosed in a sealed packet. We also suggested that the need to strictly follow existing procedure be reinforced among prison officers required to collect urine samples.

The Director General reacted positively to our suggestions, and reinforced with prison officers the need to strictly follow existing procedures and agreeing to discuss the use of sealed test 'kits'.

### ▪ **Passive Alert Drug Detection dogs**

We finalised our inquiries into the use of Passive Alert Drug Detection ('PADD') dogs in prison reception areas, and provided a discussion paper to the Department with a number of suggestions about how the system might be improved. All of our suggestions, detailed below, were accepted:

- the strip-searching of visitors to prisons on the basis of positive reactions from PADD dogs be avoided as a standard prison practice and more diversionary strategies be pursued by prison management
- consistent with this view and in conjunction with the ceasing of strip-searches, non-contact visits be introduced as a standard prison practice in those instances where a visitor has been identified by a PADD dog
- in order to ensure that visitors do not feel intimidated or distressed, and on the principle of full information to all parties, the provision of more comprehensive information to visitors prior to a search by a PADD dog, with this information to be provided in a range of ways, such as by means of a standard hand-out to all visitors, in posters at the entrance to the prison and in the visits area, or verbally by an officer other than the dog handler.

### ▪ **Confidential mail**

During the year we reviewed the confidential mail system utilised by prisons to send correspondence to the Ombudsman, the Minister for Justice, the Commonwealth and State Attorneys General, the Director General, Department of Justice, the Commonwealth Ombudsman, the Human Rights and Equal Opportunity Commission, the Anti - Corruption Commission, the Office of Health Review and the Inspector of Custodial Services. Our review included consulting with these external oversight bodies. The following suggestions made to improve the system were accepted:

- separate confidential mailboxes be provided throughout prisons for the depositing of prisoners' letters to exempt agencies
- confidential mailboxes be located in all prison units or blocks - in a position separate from the boxes provided for other prisoner mail; away from the unit or block control office; in other common area locations that provide easy access for prisoners, e.g. day or recreation rooms, libraries and education centres
- confidential mailboxes be cleared wherever possible by a member of the administration staff or a senior prison officer specifically assigned this task, not by unit prison officers under any circumstances
- confidential mail once collected from mailboxes be forwarded directly to the prison's administration centre for dispatch and not directed to a prison unit for any reason
- confidential envelopes be made readily available throughout prisons, preferably located adjacent to the confidential mailboxes - prisoners not expected to request confidential envelopes from prison officers
- the integrity of the system be subjected to regular audit as part of the prison's audit program.

As a separate but related issue, we suggested that posters could be developed and displayed prominently with mailboxes and envelopes perhaps on an adjacent information board as exist at some prisons - describing the roles of the oversight agencies and the factors to be considered in deciding when an agency should be contacted.

In terms of incoming confidential mail, we suggested that such mail be separated from general mail when received at the prison; recorded in a separate register to general mail; be separated and recorded within the prison's administration centre and not in a prison unit; and be distributed to prisoners wherever possible by a member of the administration or a senior prison officer specifically assigned this task, avoiding handling by prison unit staff in all circumstances.

#### ▪ **Grievance procedures**

We began preliminary work during the year on assessing prison grievance systems. The introduction of prison grievance systems began in 2000. Following a reasonable settling in period, it is our assessment that it is now timely for this process to become aligned with the principles outlined in the Australian Standard for Complaints Handling, AS 4269 – 1995.

The Australian Standard refers to essential elements of good complaint handling systems.<sup>2</sup> Of relevance to the prison system, in our view, are the following elements:

- commitment to the complaint handling system within all levels of the organisation, particularly at the top levels
- the process needs to be fair to both the complainant and the organisation or person against whom the complaint is made
- complaint handling staff need to be appropriately selected, trained and resourced
- the complaint handling system needs to be visible, accessible and responsive. In terms of responsiveness, reasonable target time limits for all stages of the complaint handling process should exist.

During the forthcoming year we will work closely with prison administrators and other oversight bodies, particularly the Inspector of Custodial Services, in order to promote good complaint handling principles for prison grievance systems.

## **Local government**

Local government complaints differ from the complaints about other agencies. One of the main reasons is that councils are elected bodies and many of the complaints received are about, or associated with, decisions of a council as a body, rather than the administrative actions of council staff.

Generally, the Ombudsman's role in respect of such decisions is limited to considering:

- whether or not the council had the power to make the decision complained about
- whether or not the decision was based on reasonable and supportable grounds
- whether or not the council and its officers correctly followed applicable procedures (including, where relevant, the rules of natural justice, or procedural fairness).

In investigating a complaint about a decision of a council it is not intended to impinge upon the council's ability or responsibility to make decisions on behalf of its community. Although a complaint can often be directed at a decision of a council with which the complainant does not agree, it can also include allegations that bring into question whether or not the decision was validly and properly made, and, in addition, can include associated administrative and policy issues.

<sup>2</sup> AS 4269 – 1995 - Page 7-10

Allegations are examined to establish whether the council has acted fairly and reasonably, and within its powers, following a proper consideration of the relevant facts and circumstances.

### Complaints Received

One hundred and thirty-two complaints involving 263 specific allegations were made this year about 53 of the State's 142 local government authorities. This represents a significant decrease in the number of individual complaints received compared with the 203 complaints received in each of the past two years, although the number of allegations showed only a slight decrease from the 275 received in 2000/2001 and 284 received in 2001/2002. Table 4.5 shows the types of allegations received in the reporting period.

TABLE 4.5 Nature of allegations received about local governments 2002/2003	
<b>Building Control</b>	
Refusals, conditions of applications, objections, construction and demolition matters	15
<b>Community Services</b>	
Cultural and community services, parks and recreation reserves and facilities	15
<b>Contracts and Property Management</b>	
Tenders and contracts for goods and services, resumption of property, leases, other property transactions	8
<b>Corporate and Customer Services</b>	
Complaint-handling, provision of information, liability claims, meetings/elections, conduct of officers and elected members, staffing issues	86
<b>Development</b>	
Refusals, conditions of application, objections, home occupations	29
<b>Enforcement</b>	
Enforcement of development and building conditions, unauthorised development, parking and traffic, control of animals, fire control and other statutes and local laws	38
<b>Engineering</b>	
Roads, footpaths, rights of way, construction/maintenance, traffic management, road closures, access	16
<b>Environmental Health Issues</b>	
Noise and other pollution, public health issues, waste disposal and other environmental issues	10
<b>Other Approvals and Licences</b>	
Refusals, conditions/objections	9
<b>Rates and Charges</b>	
Valuations and ratings, payments, collection, rebates, other charges	22
<b>Town Planning</b>	
Subdivision, land use, town planning schemes, rezoning	15
<b>Total</b>	<b>263</b>

### Secondary allegations

Last year's annual report referred to many complainants making secondary allegations that related to the handling of complaints concerning decisions or actions of local governments and the costs associated with the handling of such complaints. In 2002/2003, 33% of the allegations received concerned basic administrative service delivery issues such as the timely provision of information, complaint-handling and the conduct of staff and elected members.

In a high proportion of allegations finalised the complainant is assisted by the Ombudsman providing an explanation about the actions of the local government complained about and/or the basis of the reasons for those actions. That was the case for 196 of the allegations finalised this year. That indicates that many of the complaints about these types of grievances could be avoided through better communication, the giving of reasons, and greater emphasis on timeliness, accessibility and the manner of treatment of ratepayers and residents.

Many complaints arise out of situations where one or both sides appear to be unwilling or incapable of listening to what the other side is saying or asking and the resultant poor communication leads to misunderstandings and suspicions about motives. Ensuring that residents and ratepayers are informed, consulted where necessary and/or appropriately advised of their rights together with their obligations in all forms of local government communication should assist to prevent many complaints.

Table 4.6 shows how the local governments that were the subject of complaints this year are distributed across the broad categories into which local governments are classified according to the Australian Classification of Local Governments.

Category	% of total local governments in category	% of the 53 local governments subject of complaint	% of complaints received
Urban – metropolitan developed	13%	30%	38%
Regional town/city	7%	13%	13%
Fringe developing urban or regional	7%	19%	26%
Rural – significant growth	6%	9%	6%
Rural – agricultural	52%	23%	13%
Rural – remote	15%	6%	4%

### Complaints finalised

Two hundred and seventy-two allegations were finalised this year, representing an increase of approximately 10% compared to the 249 allegations finalised last year. Of those, 90 were finalised at the assessment stage (that is, the complaint was withdrawn or not proceeded with; discretion not to investigate was exercised; the issue of complaint was outside jurisdiction; it was referred back to the original agency; or it was finalised to the satisfaction of the complainant). One hundred and eighty-two were finalised by an investigation. Of those, 8 allegations could not be determined; 106 were not sustained; 20 were sustained in part; and 33 were sustained wholly or substantially. The other 15 were withdrawn or not proceeded with. Eleven resulted in changes to practice or procedure.

Table 4.7 shows the kind of assistance given to complainants following the involvement of this office.

Apology	3
Action expedited	4
Act of grace payment	1
Adequate explanation or reasons given	4
Charge reduced or rebate given	6
Reversal or significant variation of original decision	7
Explanation only	157
<b>Total allegations finalised by investigation</b>	<b>182</b>

### Development applications

As a result of the Ombudsman's investigations the City of Fremantle made a number of improvements to its procedures for dealing with development applications including:

- closer attention being paid to the need to advertise development applications;
- enhanced supervision of staff dealing with development applications; and
- more rigour during the report-checking phase of dealing with an application to check that advertising had been conducted, where required, and to check on the submissions received during the advertising period.

As a result of the investigation of another complaint the City also changed its reporting and assessment template to avoid requests for reconsideration of development applications being dealt with by the City when they are received outside of the reconsideration period. A prompt was added to the reporting assessment's template to identify whether a reconsideration application had been lodged within the statutory timeframe.

### Produce stalls

Following a complaint to the Shire of Greenough about produce stalls operating on the Brand Highway, the Shire took steps to formulate a joint process of assessment of applications for produce stalls in conjunction with the City of Geraldton.

### Public question time

The City of Mandurah introduced new procedures to provide for public question time to be extended beyond the 15 minutes allocated in its Standing Orders. The new procedures were introduced following receipt of a complaint from a person who had been prevented from questioning the Council about an issue to be discussed at the meeting because of another person having dominated the session. Question time was to be extended to accommodate people present at a meeting who had indicated that they wished to ask a question. The City also introduced procedures to avoid public question time being inappropriately dominated by one person.

### Dog nuisance

Following the investigation of a complaint to the Ombudsman by a resident about the Shire of West Arthur's response to her complaints about her neighbour's dog allegedly causing a nuisance, the Shire reported the following changes to its procedures:

- the Shire engaged a private ranger service to visit the Shire each month to deal with urban animal management issues, as the Shire does not have its own ranger;
- procedures were put in place with regard to issuing infringement notices under the *Dog Act 1976*; and
- procedures were put in place to record details of action taken in relation to complaints about dogs.

### Site classification

Following a complaint regarding information not being provided to prospective purchasers about site classifications, the City of Mandurah agreed that the classifications of sites and implications of such classifications on footing and floor slab requirements could be provided. Such information could be provided in the same manner as information is provided in regard to any zoning restriction, flooding problems, fill requirements, building constraints or subdivisional problems.

The City also introduced new procedures to ensure that geotechnical reports provided to the City should certify that filling and compaction works are carried out under controlled conditions; and consultant

engineers employed by subdividers provide certification that contractors have adhered to the required engineering specifications and the Council's subdivision guidelines.

### Noise

As a result of a complaint about the length of time taken to rectify excessive noise emanating from the refrigeration plant of a supermarket neighbouring the complainant's home, the City of Melville introduced a planning policy requiring an acoustic consultant's certification to accompany any planning applications for commercial developments.

### Unauthorised structures

The City of Joondalup amended its procedures to ensure that all alleged unauthorised structures are clearly identified and listed when notifying owners or agents of a possible breach of the *Local Government (Miscellaneous Provisions) Act 1960*.

### Policy re statutory discretion

The City of Swan reviewed its policy relating to dangerous trees and reviewed all its other policies to ensure that none improperly fettered the Council's exercise of its statutory powers. This followed a complaint that the City had refused to consider a complainant's request that the City take action in respect of an allegedly unsafe tree on the complainant's neighbour's property. The City's refusal to even consider the request was said to be in accordance with its policy to never become directly involved in disputes between neighbours, even though it had the statutory power to do so in this instance.

## Department of Housing and Works

We received 68 complaints containing 128 allegations about the Department of Housing and Works in 2003. The number of complaints was, however, 30 fewer than those received in 2001/2002 when 98 complaints containing 132 allegations were made. This equates to a decrease of 30 complaints or 31%, but a marginal decrease in the number of allegations of 3%. The number of allegations per complaint was therefore higher this year with each complaint averaging two allegations. As can be seen from Table 4.8, the number of complaints received has fluctuated over recent years, with this year being similar to 1998 and 2001.

	1998	1999	2000	2001	2002	2003
Number of individual complaints	66	115	128	68	98	68
Number of allegations	67	121	137	104	132	128

The majority of allegations received concerned the rental operations program of the Department, which attracted 92 allegations. Of those, 47, or more than half (51%), concerned the property allocation and transfer process. This was significantly greater than 2001/2002 when only 28 of the 120 allegations concerning rental operations (approximately 21%) were about the allocation and transfer process. This represents an increase of 68% this year.



An issue which arose during consideration of complaints about the property allocation and transfer process was the provision of information to prospective tenants. In some cases it was considered that the Department was not providing sufficient information to prospective tenants to assist them to make informed decisions about properties that were offered. Consequently, a suggestion was made and accepted by the Department that a brochure be prepared for distribution during the offer process.

It was suggested that the brochure include information about, among other things, the Department's *Security Policy* and the ability for a tenant to apply for additional security once in occupation. It is understood that the brochure is currently being drafted and will be provided to prospective tenants when they collect the keys to view a property. It is hoped this initiative will assist prospective tenants to decide whether to accept a property and to understand the offer process and their rights and obligations in it, and also reduce the number of complaints about the property allocation and transfer process.

The number of allegations about property condition and maintenance also increased this year with 23 allegations being received. Although it is only slightly higher (13%) than 2001/2002 when 20 allegations were received, there has been a gradual, continuing increase in the number of allegations being made about this issue since 2000/2001 when 10 were received.

In contrast the number of allegations concerning tenant liability continued to decrease this year with only four allegations being received compared with eight in 2001/2002, a drop of 50%. The number of allegations in this category has been gradually declining since 2000/2001 when 29 allegations were received.

Table 4.9 shows details of the number and nature of allegations received this year compared with previous years.

TABLE 4.9	Nature of allegations received			
	2000	2001	2002	2003
Actions of agency officers/employee management issues	27	8	-	-
Administration	-	-	12	25
Rental operations				
- Property allocations and transfers	51	38	28	47
- Tenant liability	29	13	8	4
- Property condition and maintenance	10	9	20	23
- Behaviour of tenants/evictions	3	12	11	6
- Rental/bond assistance	6	5	7	5
- Debt repayments	-	-	4	2
- Other	-	-	29	5
Property purchase	4	3	4	-
Construction & development	-	-	2	-
Other	7	16	7	11
<b>TOTAL</b>	<b>137</b>	<b>104</b>	<b>132</b>	<b>128</b>

One hundred and seven allegations were finalised this year, compared with 114 in 2001/2002. Of those, 37 were finalised at the assessment stage and 70 were finalised following an investigation.



Tables 4.10 and 4.11 show the outcomes of complaints finalised in 2002/2003.

TABLE 4.10	Manner in which allegations finalised	
	Allegations	%
<b>Finalised without investigation</b>		
Discretion exercised not to investigate	18	17
Withdrawn or not proceeded with	4	4
Finalised to satisfaction of complainant	2	2
Referred back to Department	10	9
No jurisdiction	3	3
<b>Finalised by completed investigation</b>		
Sustained wholly or substantially	6	5
Sustained partly	4	4
Not sustained	36	34
Could not be determined	5	4
Opinion unnecessary	19	18
<b>TOTAL</b>	<b>107</b>	<b>100</b>

TABLE 4.11	Assistance provided – allegations finalised by investigation
	Allegations
<b>Benefit for complainant</b>	
Act of grace payment made	1
Monetary charge reduced, withdrawn or refunded	3
Action/decision expedited	2
Explanation or reasons provided by agency	5
Reversal or significant variation of original decision	4
Apology given	1
Other assistance given	3
Explanation only	51
<b>Total allegations finalised by investigation</b>	<b>70</b>
Changes to practice/procedure	5
Staff training	1

As can be seen from Table 4.10, as a result of the investigation of complaints to the Ombudsman, a number of changes to the practices and procedures of the Department were initiated. One of those was the production of the brochure for prospective tenants described earlier in this section.

Other procedural changes included the development of a definition by way of example about what are considered to be 'acceptable property standards' to be maintained by tenants of Departmental properties; the further development of policy and procedure to ensure that a consistent approach is taken when dealing with concerns regarding property standards; clarifying in policy that photographs to validate tenant liability should be taken wherever possible; and the consideration of ways to improve record keeping by the Department. The Department also indicated that it would consider introducing a more structured approach to deal with requests for the removal of names from its credit reference agency list in order to overcome requests being dealt with in an ad hoc manner. That undertaking has not yet been formally followed up by this office.

During the last twelve months this office has initiated regular six-monthly meetings with officers at the Department to discuss issues arising during investigations and to discuss procedural matters associated with the investigation of complaints. This initiative has resulted in changes being made to departmental letters to clarify the role of the Ombudsman in dealing with complaints about the Department, and has resulted in better communication between this office and the Department, assisting in the more efficient handling of complaints. It is proposed to continue those meetings in the coming year. The Assistant Ombudsman also met with the Department's Regional Managers in March 2003 to give an overview of the Ombudsman's office and the general process of investigation of complaints conducted by this office under the *Parliamentary Commissioner Act 1971*.

## Department for Community Development

During the year, 39 complaints concerning the Department for Community Development were received, involving 99 allegations. A total of 89 allegations were finalised. Although there was only a small increase in the number of complaints compared to the previous year (34) they were more complex as is indicated by the very significant increase in allegations involved (from 50 in 2001/02 to 99 in 2002/03).

The 89 allegations finalised during 2002/2003 covered the general areas detailed in table 4.12:

TABLE 4.12	General areas of complaint		
	No.	%	As compared to % 2001/2
Adoption	0	0	0
Child maltreatment investigations	32	36	34
Funding of non-government agencies	0	0	0
Human resource management issues	1	1	0
Other	17	19	22
Out of home care (fostering)	38	43	40
Special assistance	1	1	2
Staff salaries	0	0	2
<b>TOTAL</b>	<b>89</b>	<b>100</b>	<b>100</b>

Table 4.13 shows how the 89 allegations finalised were dealt with.

TABLE 4.13	Manner in which allegations finalised		
Withdrawn or not proceeded with	3	3	8
No jurisdiction	8	9	10
Discretion exercised not to investigate or to discontinue investigation	30	34	16
Referred back to agency	11	12	22
Finalised by investigation	37	42	44
<b>TOTAL</b>	<b>89</b>	<b>100</b>	<b>100</b>

Of the 37 allegations finalised by the completion of an investigation, nine were resolved totally, substantially or partially in favour of the complainant, 22 were not sustained and six were unable to be determined.

The assistance that was able to be provided in the matters finalised by investigation is shown in Table 4.14.

	No. of instances	%	As compared to % 2001/2
Apology given	0	0	5
Action expedited	4	11	14
Other	1	3	22
Reversal or significant variation of original action	4	11	0
Explanation only by Ombudsman and/or Department	28	75	59
<b>TOTAL</b>	<b>37</b>	<b>100</b>	<b>100</b>

Examples of the assistance provided included:

- the method of reimbursing the parent of a ward for child-rearing counselling expenses was varied to overcome embarrassment for the parent;
- a Family Resource Worker was counselled after acting inappropriately towards the complainant who was the parent of a ward;
- site of parents' access visits to a ward was changed to make it more amenable for the parent; and
- a departmental assessment that the complainant was a person believed responsible for abusing a child was withdrawn.

### Systemic Changes

Several changes to the Department's policies and procedures occurred subsequent to investigations (either in response to recommendations by the Ombudsman or as a result of voluntary action by the Department). These included a review of procedures for assessing allegations of abuse.

## Western Power Corporation

During the year, 77 written complaints containing 93 allegations were received about Western Power. This represents a decrease in complaints (approximately 17%) from the 93 received in 2001/2002, and also a decrease in allegations (approximately 19%) from the 112 allegations in 2001/2002. However, it is still 17% more than the 66 complaints received in 2000/2001 and 28% more than the 73 allegations received in 2000/2001.

Only 17 allegations (approximately 18%) concerned damage to electrical appliances caused by power surges, or outages or other supplier irregularities. This percentage is considerably lower than the 26% for the previous year. The vast majority of allegations received this year (51) related to billing or account issues including allegations of excessively high accounts; debt repayment arrangements; the application of a rebate to an account; demands for payments of old debts, including debts relating to other properties or tenants; the calculation of amounts owing; disconnection threats; and non-connection of supply to new premises where the vendor has unpaid accounts. Those 51 allegations represent approximately 55% of all allegations concerning Western Power received this year. As 14 (approximately 28%) of those were sustained either wholly or in part, this is an area in respect of which further discussions with Western Power are proposed for the forthcoming year.

A total of 117 allegations were finalised during the year compared to 109 finalised last year, a small increase of approximately 7%. Table 4.15 shows the outcome of those 117 allegations finalised and Table 4.16 shows the assistance provided to complainants.

TABLE 4.15	Outcome of allegations finalised	
	Allegations	%
<b>Finalised without investigation</b>		
Discretion exercised not to investigate	26	22
Finalised to satisfaction of complainant	25	21
Referred back to agency	9	8
Complaint withdrawn or not proceeded with	4	3
<b>Finalised by completed investigation</b>		
Sustained wholly or substantially	11	10
Sustained partly	4	3
Not sustained	30	26
Could not be determined	3	3
Withdrawn or not proceeded with	5	4
<b>Total allegations finalised</b>	<b>117</b>	<b>100</b>

TABLE 4.16	Assistance provided – allegations finalised by investigation	
	Allegations	
<b>Benefit for complainant</b>		
Act of grace payment made		4
Action/decision expedited		1
Explanation or reasons provided by agency		6
Reversal or significant variation of original decision		9
Monetary charge reduced, withdrawn or refunded		4
Explanation only		29
<b>Total allegations finalised by investigation</b>		<b>53</b>
Changes to practice/procedure		4
Staff training		1

On a review of the nature of complaints being dealt with by this office, we formed the view that in many cases we were undertaking investigative work on complaints that should properly have been done by Western Power when the complaint was first raised with the Corporation. The two most common issues in this regard were damage to appliances and allegedly incorrect or excessive accounts. Typically, complainants would receive a standard reply from Western Power that was not as helpful or informative as it could have been. Rather than continuing to seek more information from Western Power, the complainant would bring the matter to the Ombudsman. Our practice was then to investigate the complaint.

In many cases, the result was that we would conduct inquiries to obtain information that could have been given to the complainant by Western Power in the first instance and we were merely providing the complainant with that information. That seemed to us to be unsatisfactory from a customer service perspective and an inappropriate use of our resources.

Meetings with the Corporation were held to discuss this issue. The Ombudsman's officers responsible for dealing with complaints about Western Power met with the Corporation's Risk Management staff, visited the call centre and gained a better appreciation of what information was available to the Corporation that could be given to complainants or what further investigation could be carried out to substantiate the Corporation's position.

As a result, several tiers of responses to complainants were jointly developed and we assisted in the wording of some letters to complainants. A protocol was developed whereby our first action is to see what tier of response had been reached by Western Power regarding the complaint. If there is a further stage to be undertaken, we now refer the complaint back to Western Power and explain to the complainant why that has been done. Western Power then replies to the complainant in whatever level of detail is available or appropriate, with a copy to this office. Our observation to date is that the outcomes have been extremely positive. Western Power now addresses customer complaints in more detail than previously, and we are investigating a smaller number of complaints.

## Education – Departments, schools, universities and TAFE colleges

During the year 47 complaints were received, involving 78 individual allegations, about the Department of Education and Training, individual schools, universities and TAFE Colleges. Seventy-six allegations were finalised. Table 4.17 shows details of allegations received and finalised during the year compared with the previous year together with the institutions the allegations concerned.

Agency	Allegations received and finalised			
	2002/2003		2001/2002	
	Allegations Received	Allegations Finalised	Allegations Received	Allegations Finalised
Department of Education and Training (administration and individual schools)	37	28	43	50
Department of Education Services	-	-	0	1
Curtin University	8	1	4	5
Edith Cowan University	0	3	4	2
Murdoch University	21	28	8	0
University of Western Australia	3	2	3	2
WA Department of Training <sup>3</sup>	1	3	8	2
Central TAFE	2	2	9	11
Central West College of TAFE	1	4	0	0
Challenger TAFE	3	3	1	1
Midland College of TAFE <sup>4</sup>	1	1	0	1
South East Metro College of TAFE <sup>5</sup>	1	1	0	0
<b>TOTAL</b>	<b>78</b>	<b>76</b>	<b>80</b>	<b>75</b>

<sup>3</sup> On 3 February 2003 the Education Department and the Department of Training (WADOT) amalgamated to form the Department of Education and Training. Allegations recorded against WADOT were received before then.

<sup>4</sup> On 1 January 2003 Midland College of TAFE and the South East Metropolitan College of TAFE amalgamated with part of the West Coast College of TAFE to form Swan TAFE. Allegations recorded were received prior to amalgamation.

<sup>5</sup> Now part of Swan TAFE. Allegation concerned matters prior to amalgamation.

Table 4.18 shows the general areas involved in the 76 allegations finalised in 2002/2003.

TABLE 4.18	General areas of complaint		
	No.	%	As compared to % 2001/2
Academic Assessment	15	20	2
Fees/charges	6	8	7
Home Schooling	2	3	3
Quality of teaching/organisation of courses	3	4	12
Staff Employment Issues	27	35	27
Student discipline	3	4	5
Miscellaneous	20	26	44
<b>TOTAL</b>	<b>76</b>	<b>100</b>	<b>100</b>

Table 4.19 shows how those allegations finalised were dealt with.

TABLE 4.19	Manner in which allegations finalised		
	No.	%	As compared to % 2001/2
Withdrawn or not proceeded with prior to commencement of investigation	1	1	3
Finalised to complainant's satisfaction without investigation	0	0	1
No jurisdiction	3	4	4
Discretion exercised not to investigate	23	30	27
Referred back to agency	8	11	10
Finalised by investigation	41	54	55
<b>TOTAL</b>	<b>76</b>	<b>100</b>	<b>100</b>

Of the 41 allegations that were finalised by an investigation, 18 were resolved totally, substantially or partially in favour of the complainant, 17 were not sustained and 6 were discontinued.

The assistance that was able to be provided as a result of recommendations made by the Ombudsman or voluntary action by the agency concerned in relation to matters finalised by investigation is shown in Table 4.20.

TABLE 4.20	Assistance provided for allegations finalised by investigation 2002/2003	
	No. of instances	As compared to 2001/2002
Act of grace payment	0	1
Action expedited	3	4
Apology given	4	2
Explanation only by Ombudsman and/or agency	24	27
Monetary charge reduced, withdrawn or refunded	4	3
Other	1	4
Reversal of significant variation or original decision	5	1
<b>TOTAL</b>	<b>41</b>	<b>42</b>

Examples of the assistance given included the following:

- school fees were refunded to the parent of a secondary student
- tuition fees were refunded to, or waived for, certain TAFE students
- the Department of Education and Training made a contribution of \$550 towards the water consumption account of a teacher in government accommodation
- various disputed salary claims were resolved in favour of Department of Education and Training employees
- a university agreed to change marking arrangements for a student so that a lecturer in respect of whom there was a reasonable apprehension of bias was not involved
- a university modified restrictions it had placed on a student contacting staff members.

### **Systemic changes**

In eight instances, in response to specific recommendations by the Ombudsman and/or voluntary initiatives by the agency concerned, changes to the agency's policies and procedures occurred subsequent to an investigation. These included:

- a university modified its appeal against assessment procedures to provide for appellants to be given a copy of all papers to be considered by the appeal committee and formally invited to submit comments about them for the committee's consideration
- a university made its guide for staff seeking promotion more explicit and decentralised parts of its promotion procedures
- a TAFE college modified its fee waiver procedures to make them more transparent and to introduce an appeals process
- a TAFE college modified its appeal against assessment procedures to ensure that re-markers used 'clean' copies of the students' work
- a TAFE college modified its enrolment information forms to clarify eligibility criteria for a refund of fees.

## **The Public Trustee**

During the year, 36 complaints involving 59 specific allegations were received about the actions or decisions of the Public Trustee's office, compared to the total of 29 complaints involving 75 separate allegations that were received in the previous year. These figures suggest that, although we received approximately 24% more complaints about the Public Trustee this year, they tended to involve fewer issues than those received last year.

Table 4.21 shows the outcome of the 41 complaints containing 77 allegations that were finalised during the year. A number of those complaints had been carried over from the previous year.

TABLE 4.21	Outcome of allegations finalised	
	Allegations	% (approx.)
<b>Finalised without investigation</b>		
Discretion exercised not to investigate	12	16
Withdrawn or not proceeded with	5	6
Finalised to satisfaction of complainant	1	2
Referred back to the agency	7	9
No jurisdiction	5	6
<b>Finalised by completed investigation</b>		
Sustained wholly or substantially	6	8
Sustained partly	4	5
Not sustained	35	45
Could not be determined	2	3
<b>TOTAL</b>	<b>77</b>	<b>100</b>

This year we found six allegations to be sustained wholly or substantially.

In the first case, which involved two separate allegations, the Public Trustee accepted the Ombudsman's recommendation that the complainant be provided with an apology for the delay in administering a deceased estate. The Public Trustee also accepted the Ombudsman's suggestion that it review its internal policy concerning the requirement for probate. However, at this stage the Public Trustee has declined to accept the Ombudsman's recommendation that an Act of Grace payment be made to the complainant. This matter is still under discussion with the agency.

Although the second complaint was sustained, there was no further action which our office could take that would have been of any practical benefit to the complainant because of the steps taken voluntarily by the Public Trustee to address his concerns, namely, apologising for its poor service, undertaking to identify and remedy problem areas and providing him with the information and explanations he had been seeking.

In the third and fourth cases, the Public Trustee rectified the identified administrative error. We are currently awaiting the Public Trustee's response to the Ombudsman's recommendation that it apologise to one of the complainants.

In the fifth and final case, the Public Trustee accepted the Ombudsman's recommendation and made an Act of Grace payment to the complainant.

### Meetings with the Public Trustee

During the year we met with the Public Trustee and her team to discuss matters of interest to both our organisations. We explained how our investigation process worked and the Public Trustee highlighted some of the issues that her office deals with which can impact upon the way a client is dealt with or an estate is administered. It is envisaged that this mutually improved understanding of each other's business will result in improved complaint-handling and response times.



## Overview of other activities

As well as the core business of dealing with individual complaints, the work of the General Public Sector team involved a number of other activities.

Members of the team gave talks on the role and work of the Ombudsman to a number of groups including students of Albany Senior High School, Broome High School, and Administrative Law Students at Murdoch University. Team members spoke to Homeswest Regional Managers, the Department of Community Development Managers' Conference, Official Prison Visitors, and new graduate officers of the Auditor General's office. Also, as part of our ongoing liaison with Parliamentary Committee staff, members met with the staff of the Legislative Assembly and Legislative Council Committees. Finally, the Assistant Ombudsman addressed a delegation of senior Chinese Government officials.

### Consultation meetings

During the year members of the team held or attended meetings with:

- the Taxi Unit of the Department for Planning and Infrastructure in relation to its proposed internal complaints handling/discipline system
- the Department of the Premier and Cabinet in relation to the promotion of good complaint handling throughout the public sector
- the consultant reviewing the Licensing Services Section of the Department for Planning and Infrastructure
- the staff of the Legislative Council Committees to develop communication protocols between the committees and this office
- the Department of Housing and Works to develop improved communication protocols between the Department and our office in respect of complaints
- the Department for Local Government and Regional Development to develop regular liaison and a memorandum of understanding concerning communication between, and the respective roles of, the Department and this office in relation to complaints about local governments
- Western Power Corporation to develop improved complaint handling protocols
- the Government Lawyers Group to discuss issues of mutual interest and concern
- the working group developing the model for the proposed Gas Industry Ombudsman
- the working group developing a proposed local government tribunal
- a workshop on the WA Citizenship Policy and Strategic Plan
- the reviewer of the *Telecommunications (Interception) Act 1979*
- WACOSS in relation to the proposed Gas Industry Ombudsman.

The Assistant Ombudsman also attended the inaugural meeting of Australian Deputy Ombudsmen in Melbourne to discuss matters of mutual interest and concern and to exchange ideas and strategies. While in Melbourne, she also visited the Telecommunications Industry Ombudsman, the Australian Banking Industry Ombudsman and the Energy and Water Ombudsman.

### **Seminars and official functions**

Various seminars and official functions were attended by members of the team during the year. They included a symposium at the University of Western Australia on issues facing Muslim people in Australia; a seminar on the proposed State Administrative Tribunal; the Australian Institute of Administrative Law Annual Forum; the National Investigations Symposium in Manly, New South Wales; and workshops and seminars about the *Public Interest Disclosure Act 2003*.

### **Memorandum of Understanding - Fire and Emergency Services Authority**

In his annual report for 2000, the former Ombudsman reported on an investigation into a complaint about Western Power. The complaint was about its investigation of a fire at the complainant's business premises. The former Ombudsman concluded that there was a need for a more collaborative approach to the matter of fire investigation and had discussions with FESA about it. FESA subsequently took carriage of the matter and has since developed a Joint MOU for Fire Investigation. The Investigating Officer who dealt with that matter and the Ombudsman attended the official launch of the MOU in September 2002. The other Government agencies involved are FESA, Department of Conservation and Land Management, Department of Consumer and Employment Protection, Western Power, Alinta Gas, and the Department of Mineral and Petroleum Resources.

### **Internal Projects**

During the year team members participated in a number of internal initiatives including a series of in-house seminars on dealing with difficult people on the telephone, and the office's Strategic Planning Group, developing a revised mission statement, vision, objectives and strategies to achieve those objectives for the whole of the office.

### **Gas Industry Ombudsman (Western Australia) scheme**

The progressive introduction of competition into the Western Australian retail gas market commenced in 1995. In a fully deregulated gas market, small use customers (defined as those whose consumption of gas is less than 1 terajoule per year, which would comprise residential and small business users) will be able to obtain gas supplies through a supplier of their choice. As part of that reform process, the Gas Retail Deregulation Project Steering Group (the Steering Group) was established to facilitate a smooth transition to full retail competition, which is expected to occur in 2004. Five working groups were set up to deal with different aspects of the deregulation process and are required to report to the Steering Group with recommendations on how that process would best be managed.

One such working group is the Customer Protection and Education Working Group (CPEWG). This office has been actively involved with the CPEWG since its inception in 2001. As its name implies, the CPEWG deals with matters relating to consumer protection measures. The CPEWG has dealt with a diverse range of consumer protection matters such as standard customer contracts, information provision, retailer of last resort and a gas marketing code of conduct. Dispute resolution issues have also been addressed and it is proposed to set up an industry-funded ombudsman scheme (similar to those operating on the eastern seaboard) to deal with consumer complaints. The CPEWG has considered issues related to the funding of the scheme, to be known as the Gas Industry Ombudsman (Western Australia) (GIO), and has developed a Charter that sets out the functions and role of the GIO in a deregulated gas market. In addition, work is continuing on a constitution for the Gas Industry Ombudsman (Western Australia) Limited, the company that will be created to establish the GIO scheme and to appoint a gas industry ombudsman.

# Administration and staffing

The position of Parliamentary Commissioner for Administrative Investigations (or Ombudsman, as it is more commonly known) was established under the *Parliamentary Commissioner Act 1971* (the Act), which was assented to on 22 December 1971 and came into operation on 12 May 1972. Under the Act the Ombudsman reports direct to the Parliament, and it is to the Parliament – not the Government of the day – that the Ombudsman is responsible.

The responsibility for the administration of the Act (as distinct from the responsibility for the Ombudsman's office) is allocated to the Premier. The Department of the Premier and Cabinet provides a support service for such matters as the payment of salaries and the keeping of accounts and personnel records.

Appointments to the positions of Ombudsman and Deputy Ombudsman are made by the Governor pursuant to section 5(2) of the Act. The Governor may, on the recommendation of the Ombudsman, appoint such officers as he considers necessary for the purpose of enabling the functions of the Ombudsman's office to be discharged. Part 3 of the *Public Sector Management Act 1994* (which relates to the constitution and staffing of the Public Service) does not apply to the Ombudsman, the Deputy Ombudsman, an Acting Ombudsman or officers of the Ombudsman.

In November 2002, the Deputy Ombudsman, Mr Alex Errington, retired after serving in the position for 10 years. Mr Errington was Deputy to three Ombudsmen: Mr Bob Eadie, Mr Murray Allen and myself; acted as Ombudsman on a number of occasions, and served the office diligently during a period of important growth and change. I wish to record my appreciation for Mr Errington's service to the office of the Ombudsman throughout his tenure.

## Staffing

The year saw a number of staff changes in the office.

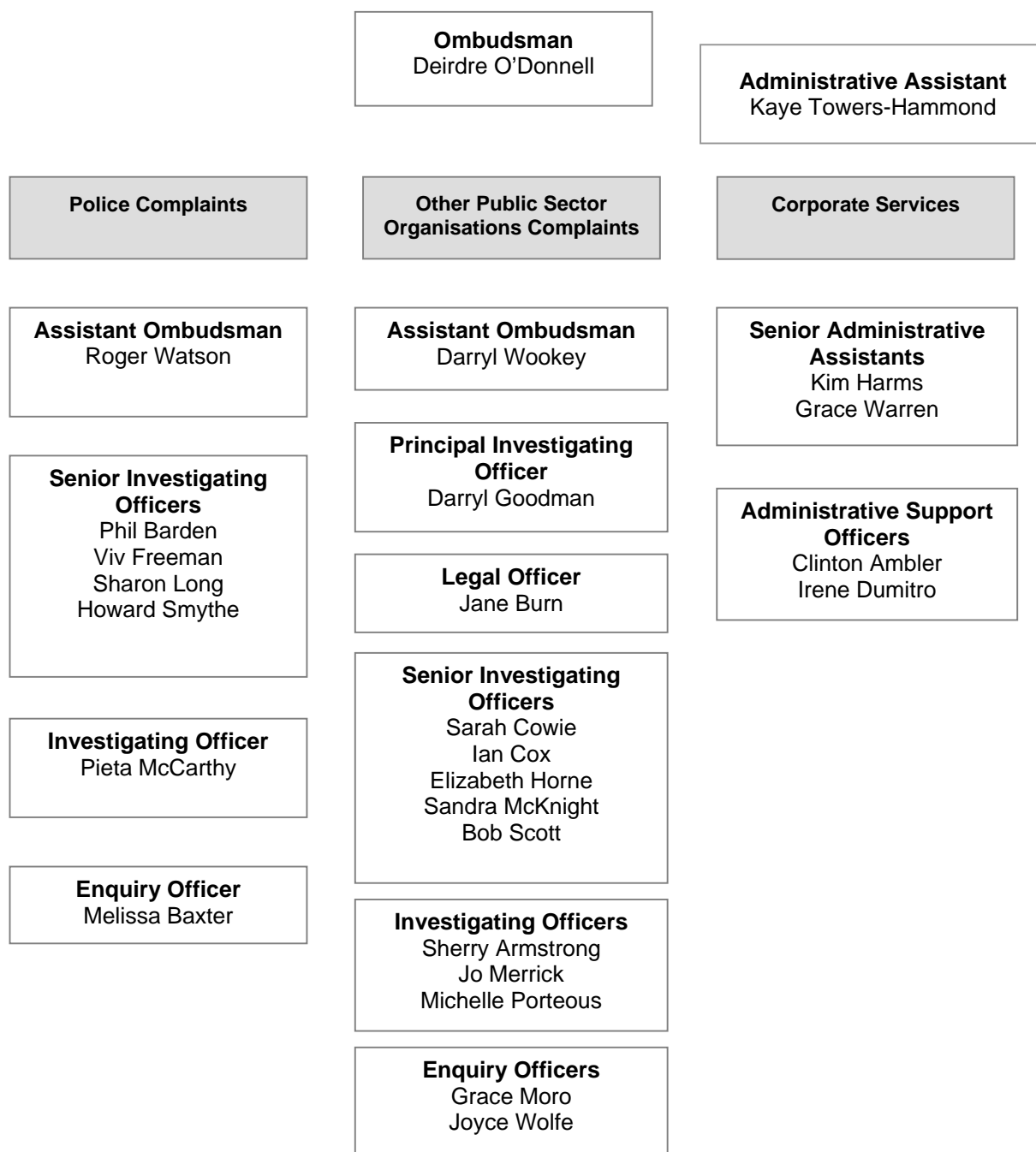
Michelle Airey and Michelle Porteous commenced as Investigating Officers. Sandra McKnight was appointed to a temporary position as Senior Investigating Officer, and Pieta McCarthy (on leave without pay from the Office of Health Review) also served a period of temporary appointment with our office. Kaye Towers-Hammond took up a temporary administrative assistant position, assisting the Police and General teams.

Robert Bateman, Cherie McMullan and Sharon Wong all resigned from the office. Terry Waldron, who had been working with the Office of Multicultural Interests, took up a permanent position with that office.

In November 2002, David Robinson returned to this office after working with the Department of Consumer and Employment Protection. In January 2003 Margaret Furphy returned to her substantive position at the Disability Services Commission, after four years with the Ombudsman.

During March and April 2003, Jason Agar, Michelle Airey and David Robinson commenced leave without pay to enable them to work with the Police Royal Commission. In April 2003 Kathleen McDonald commenced leave without pay to enable her to work at the Office of the Premier.

As at 30 June 2003 the office was organised as shown in the following chart.



## Industrial relations

On 28 June 2001 an 'Omnibus' Bill was introduced into the Parliament that contained a clause designed to enable the Ombudsman to appoint staff in the office, rather than all appointments having to be approved by the Governor in Executive Council. At the end of the reporting period the Bill was still before the Parliament.

## Office accommodation / Collocation

Since 1978 our office and the Perth office of the Commonwealth Ombudsman have shared accommodation at 44 St Georges Terrace, including reception and telephone switchboard. From 2000 we have also collocated with the Office of Health Review, including the sharing of reception, interview rooms and conference room.

During the reporting period work commenced to collocate the Office of the Public Sector Standards Commissioner with the Office of Health Review, the Commonwealth Ombudsman's Perth office and this office in accommodation at 44 St Georges Terrace. The plans provided for a common reception area, meeting rooms and accommodation for corporate services staff on Level 12, which have subsequently been completed.

## Information technology

There were no significant changes made to the office's computing network during the year. The network operated efficiently and provided a stable service to users.

We are continuing with our program that provides for the replacement of computing hardware on a three-year renewal basis. The program should enable us to keep pace with technological improvements.

Alphawest has continued to provide a range of information technology support services.

## Freedom of information

The office is an exempt agency under the *Freedom of Information Act 1992*. However, it has always been the policy to apply the spirit of this Act, where possible, to documents held by, or originating from, the office, provided that their release would not contravene the secrecy provision of the *Parliamentary Commissioner Act 1971*.

Agencies that receive applications for access to documents that have originated from this office or have been specifically prepared for the Ombudsman are required to notify us of such applications so that we have the opportunity to point out any sensitivities in the documents.

## Legislation impacting on the office

The office does not administer any legislation. However, the *Parliamentary Commissioner Act 1971* provides the basis for the existence of the office, and the *Telecommunications (Interception) Western Australia Act 1996* places certain statutory responsibilities on the Ombudsman. Other written laws which have an impact on our activities are:

- *Anti-Corruption Commission Act 1998*
- *Disability Services Act 1993*
- *Equal Opportunity Act 1984*

- *Financial Administration and Audit Act 1985*
- *Library Board of Western Australia Act 1951*
- *Occupational Health, Safety and Welfare Act 1987*
- *Public Sector Management Act 1994*
- *Royal Commissions Act 1968*
- *Royal Commission (Police) Act 2002*
- *State Records Act 2000*
- *State Supply Commission Act 1991*
- *Workers' Compensation and Rehabilitation Act 1981.*

### **Public Sector Management Act**

A code of conduct for the office was adopted in 1997/1998. It incorporates appropriate policy and procedures for resolving complaints about discrimination and harassment and draws upon provisions contained in the *Public Sector Code of Ethics*.

There were no breach of standards applications received during the year.

In accordance with section 31(1) of the *Public Sector Management Act 1994*, in the administration of the office during 2002-03 I have complied with the *Public Sector Standards in Human Resource Management*, the *Public Sector Code of Ethics* and the office *Code of Conduct*.

### **Occupational health and safety**

There were no compensation claims received during the year.

### **Equal employment opportunity**

The office continued to actively support the principles and practice of equal employment opportunity in the workplace. Flexible work practices, including part-time employment, working from home, care of family and parental leave are examples of this.

### **Disability services**

There were no complaints received during the year regarding the office's provision of appropriate facilities or access to services.

### **Electoral Act 1907**

No monies were paid for advertising during 2002/03.

### **Waste Paper Recycling**

The office recycles quality waste paper.

## Energy Smart Government Policy

The office did not achieve energy savings during the year. Energy consumption and costs for 2001/2002 and 2002/2003 are summarised in Table 5.1. We intend to complete a comprehensive energy audit during 2003/2004 and reduce its energy consumption in line with Government policy.

TABLE 5.1		Energy Smart Government Program 2002/2003	
	Baseline	2002/2003	Variation %
Energy Consumption (MJ)	322,369	328,842	2
Energy Cost (\$)	14,976	15,192	
Greenhouse Gas Emissions (Tonnes of CO <sub>2</sub> )	82	87	
Performance Indicators			
MJ per sqm	356	363	
MJ per FTE	11,116	11,339	





## Financial statements

### Financial statements for the year ended 30 June 2003

The accompanying financial statements relating to the Office of the Parliamentary Commissioner for Administrative Investigations have been prepared in compliance with the provisions of the *Financial Administration and Audit Act 1985* from proper accounts and records to present fairly the financial transactions for the year ended 30 June 2003 and the financial position as at 30 June 2003.

At the date of signing, I am not aware of any circumstances which would render any particulars included in the financial statements misleading or inaccurate.



D A O'Donnell  
Accountable Officer

29 August 2003

## Parliamentary Commissioner for Administrative Investigations Statement of Financial Performance

for the year ended 30 June 2003

	Note	2002/03 \$	2001/02 \$
<b>COST OF SERVICES</b>			
<b>Expenses from ordinary activities</b>			
Employee expenses	4	2,139,174	2,123,273
Travelling expenses		20,519	4,828
Depreciation expense	5	57,083	56,520
Administration expenses	6	304,060	303,310
Accommodation expenses	7	313,866	297,302
Other Expenses from ordinary activities	8	8,493	
Total cost of services		<u>2,843,195</u>	<u>2,785,233</u>
<b>Revenue from ordinary activities</b>			
Revenue from other services	9	17,543	10,297
Other revenue – from State Government	9	17,104	16,178
Commonwealth contribution	9		4,572
Total revenue from ordinary activities		<u>34,647</u>	<u>31,047</u>
<b>NET COST OF SERVICES</b>		<u>2,808,548</u>	<u>2,754,186</u>
<b>REVENUES FROM GOVERNMENT</b>			
	10		
Output appropriation		2,795,000	2,626,000
Resources received free of charge		98,437	111,546
Liabilities assumed by the Treasurer		20,241	4,617
Total revenues from State Government		<u>2,913,678</u>	<u>2,742,163</u>
<b>TOTAL CHANGES IN EQUITY OTHER THAN THOSE RESULTING FROM TRANSACTIONS WITH WA STATE GOVERNMENT AS OWNERS</b>		<u>105,130</u>	<u>(12,023)</u>

The Statement of Financial Performance should be read in conjunction with the accompanying notes.

**Parliamentary Commissioner for Administrative Investigations  
Statement of Financial Position**

as at 30 June 2003

	Note	2002/03 \$	2001/02 \$
<b>CURRENT ASSETS</b>			
Cash assets	20(a)	258,364	186,423
Restricted cash assets	11	558,474	92,291
Other Assets	12	0	1,448
Receivables	13	7,009	9,387
<b>Total Current Assets</b>		<u>823,847</u>	<u>289,549</u>
<b>NON-CURRENT ASSETS</b>			
Restricted cash assets	11	64,000	58,000
Furniture and fittings	15	0	0
Computer equipment	15	58,336	71,048
Office equipment	15	2,378	6,216
Office establishment	15	59,984	80,095
Works of art	15	4,965	4,965
Accounts receivable for outputs	14	159,000	72,000
<b>Total Non-Current Assets</b>		<u>348,663</u>	<u>292,324</u>
<b>TOTAL ASSETS</b>		<u>1,172,510</u>	<u>581,873</u>
<b>CURRENT LIABILITIES</b>			
Payables	16	58,191	58,784
Other Liabilities	18	44,866	42,346
Provisions	17	374,974	384,554
<b>Total Current Liabilities</b>		<u>477,974</u>	<u>485,684</u>
<b>NON-CURRENT LIABILITIES</b>			
Provisions	17	133,217	168,000
<b>Total Non-Current Liabilities</b>		<u>133,217</u>	<u>168,000</u>
<b>Total Liabilities</b>		<u>611,191</u>	<u>653,684</u>
<b>EQUITY</b>			
Contributed equity	19	596,000	68,000
Reserves		5,117	5,117
Accumulated surplus/(deficiency)		-39,798	(144,928)
<b>Total Equity</b>		<u>561,319</u>	<u>(71,811)</u>
<b>TOTAL LIABILITIES AND EQUITY</b>		<u>1,172,510</u>	<u>581,873</u>

The Statement of Financial Position should be read in conjunction with the accompanying notes.

**Parliamentary Commissioner for Administrative Investigations**  
**Statement of Cash Flows**  
*for the year ended 30 June 2003*

	Note	2002/03 \$ Inflows (Outflows)	2001/02 \$ Inflows (Outflows)
<b>CASH FLOWS FROM GOVERNMENT</b>			
Output appropriations		2,708,000	2,554,000
Capital contributions (2002/2003 appropriation)		528,000	68,000
<b>Net cash provided by State Government</b>		<u>3,236,000</u>	<u>2,622,000</u>
<b>Utilised as follows:</b>			
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
<b>Payments</b>			
Employee costs		(2,161,664)	(2,112,050)
Travelling expenses		(20,501)	(5,480)
GST payments on purchases		(54,277)	(53,881)
Administration		(164,468)	(202,131)
Accommodation		(312,529)	(310,514)
<b>Receipts</b>			
Revenue from services		15,427	9,765
Commonwealth contribution		0	4,572
Other revenue - from ordinary activities		17,104	16,178
GST receipts on sales		3,471	4,676
GST receipts from taxation authority		51,377	45,631
<b>Net cash provided by/(used in) operating activities</b>	20(b)	<u>(2,626,060)</u>	<u>(2,603,234)</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
Purchase of non-current physical assets		(65,817)	(3,846)
<b>Net cash provided by/(used in) investing activities</b>		<u>(65,817)</u>	<u>(3,846)</u>
<b>NET INCREASE/(DECREASE) IN CASH HELD</b>			
		544,123	14,920
Cash assets at the beginning of the financial year		336,715	321,795
<b>CASH AT THE END OF THE FINANCIAL YEAR</b>	20(a)	<u>880,838</u>	<u>336,715</u>

The Statement of Cash Flows should be read in conjunction with the accompanying notes.

## Parliamentary Commissioner for Administrative Investigations Summary of Consolidated Fund Appropriations and Revenue Estimates

for the year ended 30 June 2003

	2002/03 Estimate \$	2002/03 Actual \$	Variance \$	2002/03 Actual \$	2001/02 Actual \$	Variance \$
<b>PURCHASE OF OUTPUTS</b>						
Item 4 Net amount appropriated to purchase outputs	2,471,000	2,490,000	19,000	2,490,000	2,321,000	169,000
Amount authorised by other statutes Parliamentary Commissioner Act 1971	305,000	305,000	0	305,000	305,000	0
<b>Total appropriations provided to purchase outputs</b>	<u>2,776,000</u>	<u>2,795,000</u>	<u>19,000</u>	<u>2,795,000</u>	<u>2,626,000</u>	<u>169,000</u>
<b>CAPITAL</b>						
Item 120 Capital Contributions	92,000	528,000	436,000	528,000	68,000	460,000
<b>GRAND TOTAL OF APPROPRIATIONS</b>	<u>2,868,000</u>	<u>3,323,000</u>	<u>455,000</u>	<u>3,323,000</u>	<u>2,694,000</u>	<u>629,000</u>
<b>Details of Expenses by Outputs</b>						
Output 1 - Police Service and railway special constables	1,351,000	1,095,321	(255,679)	1,095,321	1,274,439	(179,118)
Output 2 - Other Public Sector Organisations	1,482,000	1,702,890	220,890	1,702,890	1,470,699	232,191
Output 3 - Telecommunications Interception Audit	43,000	44,984	1,984	44,984	40,095	4,889
<b>Total Cost of Outputs</b>	<u>2,876,000</u>	<u>2,843,195</u>	<u>(32,805)</u>	<u>2,843,195</u>	<u>2,785,233</u>	<u>57,962</u>
Less total revenues from ordinary activities	30,000	34,647	4,647	34,647	31,047	3,600
Net Cost of Outputs	<u>2,846,000</u>	<u>2,808,548</u>	<u>(37,452)</u>	<u>2,808,548</u>	<u>2,754,186</u>	<u>(54,362)</u>
Adjustments (i)	70,000	13,548	(56,452)	13,548	128,186	(114,638)
<b>Total appropriations provided to purchase outputs</b>	<u>2,776,000</u>	<u>2,795,000</u>	<u>19,000</u>	<u>2,795,000</u>	<u>2,626,000</u>	<u>169,000</u>
<b>Capital Expenditure</b>						
Purchase of non-current physical assets	92,000	28,914	(63,086)	28,914	44,062	(15,148)
Adjustment for other funding sources	0	499,086	499,086	499,086	47,938	451,148
<b>Capital Contribution (appropriation)</b>	<u>92,000</u>	<u>528,000</u>	<u>(562,172)</u>	<u>528,000</u>	<u>92,000</u>	<u>436,000</u>

### DETAILS OF REVENUE ESTIMATES

Revenues disclosed as operating revenues

(i) Adjustments are related to movements in cash balances and other accrual items such as receivables, payables and superannuation.

The Summary of Consolidated Fund Appropriations and Revenues Estimates should be read in conjunction with the accompany notes.

This Summary provides the basis for the Explanatory Statement Information requirements of TI 945, set out in Note 23.

**Parliamentary Commissioner for Administrative Investigations**  
**Output Schedule of Expenses and Revenues**  
*for the year ended 30 June 2003*

Output	Police Service and railway special constables		Other Public Sector Organisations		Telecommunication Interception Audit		Total	
	2002/03 \$	2001/02 \$	2002/03 \$	2001/02 \$	2002/03 \$	2001/02 \$	2002/03 \$	2001/02 \$
<b>COST OF SERVICES</b>								
<b>Expenses from ordinary activities</b>								
Employee expenses	810,302	940,835	1,285,857	1,144,574	43,015	37,864	2,139,174	2,123,273
Travelling expenses	10,259	2,414	10,260	2,414	0	0	20,519	4,828
Depreciation	28,719	28,433	28,364	28,087	0	0	57,083	56,520
Administration expenses	123,263	154,097	187,321	146,989	1,969	2,224	312,553	303,310
Accommodation expenses	122,779	148,651	191,087	148,651	0	0	313,866	297,302
<b>Total cost of services</b>	<b>1,095,322</b>	<b>1,274,430</b>	<b>1,702,889</b>	<b>1,470,715</b>	<b>44,984</b>	<b>40,088</b>	<b>2,843,195</b>	<b>2,785,233</b>
<b>Revenues from ordinary activities</b>								
Revenue from other services	8,962	932	8,581	9,365	0	0	17,543	10,297
Other revenue from ordinary activities	8,552	8,089	8,552	8,089	0	0	17,104	16,178
Commonwealth grants and contributions		0		4,572	0	0	0	4,572
<b>Total revenues from ordinary activities</b>	<b>17,514</b>	<b>9,021</b>	<b>17,133</b>	<b>22,026</b>	<b>0</b>	<b>0</b>	<b>34,647</b>	<b>31,047</b>
<b>NET COST OF SERVICES</b>	<b>1,077,808</b>	<b>1,265,409</b>	<b>1,685,758</b>	<b>1,448,689</b>	<b>44,984</b>	<b>40,088</b>	<b>2,808,548</b>	<b>2,754,186</b>
<b>REVENUES FROM STATE GOVERNMENT</b>								
Output appropriations	1,285,700	1,207,960	1,453,400	1,365,520	55,900	52,520	2,795,000	2,626,000
Resources received free of charge	51,187	58,004	45,281	51,311	1,969	2,231	98,437	111,546
Liabilities assumed by the Treasurer	10,525	2,401	9,311	2,124	405	92	20,241	4,617
<b>Total revenues from State Government</b>	<b>1,347,412</b>	<b>1,268,365</b>	<b>1,507,992</b>	<b>1,418,955</b>	<b>58,274</b>	<b>54,843</b>	<b>2,913,678</b>	<b>2,742,163</b>
<b>CHANGE IN NET ASSETS RESULTING FROM OPERATIONS</b>	<b>269,604</b>	<b>2,956</b>	<b>(177,764)</b>	<b>(29,734)</b>	<b>13,290</b>	<b>14,755</b>	<b>105,130</b>	<b>(12,023)</b>

The output Schedule of Expenses and Revenues should be read in conjunction with the accompanying notes.

# Parliamentary Commissioner for Administrative Investigations

## Notes to the Financial Statements for the year ended 30 June 2003

### 1 Mission and funding

The mission of the Office is *“To assist the Parliament of Western Australia to be confident that the public sector of the State is accountable for, and is improving the standard of, administrative decision-making, practices and conduct”*.

The Office is predominantly funded by Parliamentary appropriations. The financial statements encompass all funds through which the Office controls resources to carry on its functions.

### 2 Significant accounting policies

The following accounting policies have been adopted in the preparation of the financial statements. Unless otherwise stated these policies are consistent with those adopted in the previous year.

#### (a) General Statement

The financial statements constitute a general purpose financial report which has been prepared in accordance with Australian Accounting Standards, Statements of Accounting Concepts and other authoritative pronouncements of the Australian Accounting Standards Board and Urgent Issues Group (UIG) Consensus Views as applied by the *Treasurer's Instructions*. Several of these are modified by the *Treasurer's Instructions* to vary the application, disclosure, format and wording. The *Financial Administration and Audit Act* and the *Treasurer's Instructions* are legislative provisions governing the preparation of financial statements and take precedence over Australian Accounting Standards, Statements of Accounting Concepts and other authoritative pronouncements of the Australian Accounting Standards Board and UIG Consensus Views. The modifications are intended to fulfil the requirements of general application to the public sector together with the need for greater disclosure and also to satisfy accountability requirements.

If any such modification has a material or significant financial effect upon the reported results, details of that modification and, where practicable, the resulting financial effects are disclosed in individual notes to these financial statements.

#### (b) Basis of Accounting

The financial statements have been prepared in accordance with the Australian Accounting Standard AAS 29.

The statements have been prepared on the accrual basis of accounting under the historical cost convention, except that certain non-current physical assets have been introduced at written down current cost as at 30 June 1997. Additions to non-current physical assets since valuation are stated at cost.

#### (c) Output Appropriations

Output Appropriations are recognised as revenues in the period in which the Office gains control of the appropriated funds. The Office gains control of appropriated funds at the time those funds are deposited into the Office's bank account or credited to the holding account held at the Department of Treasury and Finance.

**(d) Contributed Equity**

Under UIG 38 "Contributions by Owners Made to Wholly-Owned Public Sector Entities" transfers in the nature of equity contributions must be designated by the Government (owners) as contributions by owners (at the time of, or prior to transfer) before such transfers can be recognised as equity contributions in the financial statements. Capital contributions (appropriations) have been designated as contributions by owners and have been credited to Contributed Equity in the Statement of Financial Position.

**(e) Net Appropriation Determination**

Pursuant to section 23A of the Financial Administration and Audit Act, the net appropriation determination by the Treasurer provides for retention of the following moneys received by the Office:

- proceeds from fees and charges;
- Commonwealth specific purpose grants and contributions;
- revenues derived from the sale of real property;
- one-off revenues with a value of less than \$10,000 derived from the sale of property other than real property; and
- other departmental revenue.

In accordance with the determination, the Office retained \$34,647 in 2002-03 (\$31,047 in 2001-02). Retained revenues may only be applied to the outputs specified in the 2002-03 Budget Statements.

**(f) Revenue Recognition**

Revenue from the rendering of services is recognised when the Office has delivered service to the customer.

**(g) Acquisition of assets**

The cost method of accounting is used for all acquisitions of assets. Cost is measured as the fair value of the assets given up or liabilities undertaken at the date of acquisition plus incidental costs directly attributable to the acquisition.

**(h) Depreciation of non-current assets**

All non-current assets having a limited useful life are systematically depreciated over their useful lives in a manner which reflects the consumption of their future economic benefits. Depreciation is calculated on a straight-line basis using rates which are reviewed annually.

Expected useful lives for each class of depreciable asset are:

Furniture and fittings	5 years
Computer equipment	3 years
Office equipment	5 years
Office establishment	5 years

Works of art controlled by the Office are classified as heritage assets. They are anticipated to have very long and indeterminate useful lives. Their service potential has not, in any material sense, been consumed during the reporting period. As such, no amount for depreciation has been recognised in respect of them.



**(i) Leases**

The Office has entered into an operating lease arrangement for motor vehicles where the lessors effectively retain all the risks and benefits incidental to ownership of the items held under the operating lease.

Office accommodation occupied by the Office is under a head lease arrangement between the lessor and the Commercial Property Branch of the Department of Housing and Works. As such, the Office has entered into an operating lease for the rent of its office space where the lessor effectively retains all of the risks and benefits incidental to ownership of the building held under the operating lease.

Equal instalments of the lease payments are charged to the statement of financial performance over the lease term as this is representative of the pattern of benefits to be derived from the leased property.

**(j) Cash**

For the purposes of the Statement of Cash Flows, cash includes cash assets and restricted cash assets.

**(k) Accrued Salaries**

The Accrued Salaries Suspense Account (refer to note 12) consists of amounts paid annually into a suspense account over a period of 10 financial years to largely meet the additional cash outflow in each eleventh year when 27 pay days occur in that year instead of the normal 26. No interest is received on this account.

Accrued salaries (refer note 19) represent the amount due to staff but unpaid at the end of the financial year, as the end of the last pay period for that financial year does not coincide with the end of the financial year. Accrued salaries are settled within a few days of the financial year end. The Office considers the carrying amount of accrued salaries to be equivalent to the fair net value.

**(l) Receivables**

Receivables are recognised at the amounts receivable as they are due for settlement no more than 30 days from the date of recognition.

Collectability of receivables is reviewed on an ongoing basis. Debts which are known to be uncollectable are written off. A provision for doubtful debts is raised where some doubt as to collection exists and in any event where the debt is more than 60 days overdue.

**(m) Payables**

Payables, including accruals not yet billed, are recognised when the Office becomes obliged to make future payments as a result of a purchase of assets or services. Payables are generally settled within 30 days.

**(n) Employee entitlements**

Annual leave

This benefit is recognised at the reporting date in respect to employees' service up to that date and is measured at the nominal amounts expected to be paid when the liabilities are settled.

### Long service leave

Leave benefits are calculated at remuneration rates expected to be paid when the liabilities are settled. A liability for long service leave is recognised after an employee has completed four years of service. An actuarial assessment of long service leave undertaken by PricewaterhouseCoopers in 2002 determined that the liability measured using the short hand method was not materially different from the liability measured using the present value method of expected future payments.

The method of measurement of the liability is consistent with the requirements of accounting Standard AASB 1028 "Employee Benefits".

### Superannuation

Staff may contribute to the Pension Scheme, a defined benefits pension scheme now closed to new members, or to the Gold State Superannuation Scheme, a defined benefit and lump sum scheme now also closed to new members. All staff who do not contribute to either of these schemes become non-contributory members of the West State Superannuation Scheme, an accumulation fund complying with the Commonwealth Government's *Superannuation Guarantee (Administration) Act 1992*. All of these schemes are administered by the Government Employees Superannuation Board (GESB).

The superannuation expense comprises the following elements:

- (i) change in the unfunded employer's liability in respect of current employees who are members of the Pension Scheme and current employees who accrued a benefit on transfer from that Scheme to the Gold State Superannuation Scheme; and
- (ii) employer contributions paid to the Gold State Superannuation Scheme and West State Superannuation Scheme.

The superannuation expense does not include payment of pensions to retirees as this does not constitute part of the cost of services provided by the Office in the current year.

A revenue "Liabilities assumed by the Treasurer" equivalent to (i) is recognised under Revenues From Government in the Statement of Financial Performance, as the unfunded liability is assumed by the Treasurer. The GESB makes the benefit payments and is recouped by the Treasurer.

The Office is funded for employer contributions in respect of the Gold State Superannuation Scheme and the West State Superannuation Scheme. These contributions were paid to the GESB during the year. The GESB subsequently paid the employer contributions in respect of the Gold State Superannuation Scheme to the Consolidated Fund.

### **(o) Resources Received Free of Charge or For Nominal Value**

Resources received free of charge or for nominal value which can be reliably measured are recognised as revenues and as assets or expenses as appropriate at fair value.

## **3 Outputs of the Office**

Information about the Office's outputs and the expenses and revenues which are reliably attributable to those outputs is set out in the Outputs Schedule.

The three key outputs of the Office are to:

### **Output 1: Police Service and railway special constables**

**Description:** Provide an effective and efficient system of investigating, and reviewing the adequacy of internal investigations of, complaints about the Police Service and railway special constables.

**Output 2: Other Public Sector Organisations**

**Description:** Provide an effective and efficient system of investigating complaints about public sector organisations other than the Police Service and railway special constables.

**Output 3: Telecommunications Interception Audit**

**Description:** Perform the duties of Principal Inspector and Inspectors under the *Telecommunications (Interception) Western Australian Act 1996*.

	2002/03	2001/02
	\$	\$
<b>4 Employee expenses</b>		
Salaries	1,942,232	1,914,493
Superannuation	213,184	153,904
Long service leave	(56,856)	(38,987)
Annual leave	15,148	(3,350)
Other related expenses (I)	25,466	97,213
	<u>2,139,174</u>	<u>2,123,273</u>
<p>(I) These employee expenses include Superannuation, RiskCover premiums and other employment on-costs associated with the recognition of annual and long service leave liability. The related on-costs liability is included in employee entitlements liabilities at Note 17.</p>		
<b>5 Depreciation</b>		
Furniture and fittings	0	0
Computer equipment	37,626	34,996
Office equipment	3,839	4,385
Office establishment	15,618	17,138
	<u>57,083</u>	<u>56,519</u>
<b>6 Administration expenses</b>		
Communications	36,252	35,074
Consumables	52,955	58,506
Capital User Charge	42,566	0
Services and Contracts	75,187	99,218
Resources received free of charge (see note 10)	97,100	110,512
	<u>304,060</u>	<u>303,310</u>
<b>7 Accommodation expenses</b>		
Expenses directly incurred by the Office	312,529	296,268
Resources received free of charge (see note 10)	1,337	1,034
	<u>313,866</u>	<u>297,302</u>
<b>8 Other expenses from ordinary activities</b>		
Carrying amount of non-current assets disposed of	8,493	0
<b>9 Other revenue - from ordinary activities</b>		
Other revenue - State Government	17,104	16,178
Retained revenue - other	6,469	817
Government grant - Indian Ocean Territories	0	4,572
Revenue from other services	11,074	9,480
	<u>34,647</u>	<u>31,047</u>

	2002/03	2001/02
	\$	\$
<b>10 Revenues (to) from government</b>		
Appropriation revenue received during the year:		
Output appropriation (I)		
Recurrent	2,490,000	2,321,000
Special Acts	<u>305,000</u>	<u>305,000</u>
	2,795,000	2,626,000
The following liabilities have been assumed by the Treasurer during the financial year:		
Superannuation (II)	<u>20,241</u>	<u>4,617</u>
Total liabilities assumed by the Treasurer	20,241	4,617
Resources received free of charge (III) Determined on the basis of the following estimates provided by agencies:		
Office of the Auditor General - audit services	12,500	12,500
Department of Justice	9,155	5,685
Department of the Premier and Cabinet - Corporate and Business Services	75,445	92,327
Department of Housing and Works - property management	1,337	1,034
	<u>98,437</u>	<u>111,546</u>

(I) Output appropriations are accrual amounts reflecting the full cost of outputs delivered. The appropriation revenue comprises a cash component and a receivable (asset). The receivable (holding account) comprises the depreciation expense for the year and any agreed increase in leave liability during the year.

(II) The assumption of the superannuation liability by the Treasurer is only a notional revenue to offset the notional superannuation expense reported in respect of current employees who are members of the pension scheme and current employees who have a transfer benefit entitlement under the Gold State Scheme.

(III) Where assets or services have been received free of charge or for nominal consideration, the Office recognises revenues (except where the contributions of assets or services are in the nature of contributions by owners in which case the Office shall make a direct adjustment to equity) equivalent to the fair value to the assets and/or the fair value of those services that can be reliably determined and which would have been purchased if not donated, and those fair values shall be recognised as assets or expenses, as applicable.

	2002/03	2001/02
	\$	\$
<b>11 Restricted cash assets</b>		
Current		
Departmental Operating Trust Account – Capital contributions (I)	558,474	92,291
Non-current		
Accrued salaries and cash in suspense account (II)	64,000	58,000
<p>(I) Balance of Capital contributions appropriated for the purpose of capital works.</p>		
<p>(II) Amount held in suspense account is only to be used for the purpose of meeting the 27<sup>th</sup> pay in a financial year that occurs every 11 years.</p>		
<b>12 Prepayments</b>		
Amounts paid in advance in respect of goods and services		
Prepayments	0	1,448
	0	1,448
<b>13 Receivables</b>		
Current		
GST Receivable	5,946	9,419
GST payable	(16)	(32)
Other	1,079	
	7,009	9,387
<b>14 Amounts receivable for outputs</b>		
Non-current	159,000	72,000
<p>This asset represents the non-cash component of output appropriations. It is restricted in that it can only be used for asset replacement or payment of leave liability.</p>		

	2002/03 \$	2001/02 \$
<b>15 Property, furniture, fittings, equipment and software</b>		
Furniture and fittings		
At cost or valuation	16,000	16,000
Accumulated depreciation	<u>(16,000)</u>	<u>(16,000)</u>
	<u>0</u>	<u>0</u>
Computer equipment		
At cost or valuation	228,117	203,202
Accumulated depreciation	<u>(169,781)</u>	<u>(132,154)</u>
	<u>58,336</u>	<u>71,048</u>
Office equipment		
At cost or valuation	52,450	52,450
Accumulated depreciation	<u>(50,072)</u>	<u>(46,234)</u>
	<u>2,378</u>	<u>6,216</u>
Office establishment		
At cost or valuation	110,709	118,250
Accumulated depreciation	<u>(50,725)</u>	<u>(38,155)</u>
	<u>59,984</u>	<u>80,095</u>
Works of art		
At cost	<u>4,965</u>	<u>4,965</u>
Total		
At cost and valuation	412,241	394,867
Accumulated depreciation	<u>(286,578)</u>	<u>(232,543)</u>
	<u>125,663</u>	<u>162,324</u>

#### Reconciliations

Reconciliations of the carrying amounts of property, plant, equipment and vehicles at the beginning and end of the current and previous financial year are set out below.

2002/2003	Furniture & fittings	Computer equipment	Office equipment	Office establishment	Art Work	Total
Carrying amount at start of year	0	71,048	6,217	80,095	4,965	162,325
Additions		24,914		4,000		28,914
Disposals				(11,541)		(11,541)
Depreciation Write back				3,048		3,048
Revaluation increments						0
Depreciation	0	(37,626)	(3,839)	(15,618)		(57,083)
Carrying amount at end of year	<u>0</u>	<u>58,336</u>	<u>2,378</u>	<u>59,984</u>	<u>4,965</u>	<u>125,663</u>

	2002/03	2001/02
	\$	\$
<b>16 Payables</b>		
Current		
Administration expenses	54,878	18,568
Capital expenses	3,313	40,216
	<u>58,191</u>	<u>58,784</u>

The carrying amount of payables approximates their net fair values.

<b>17 Provisions</b>		
Current		
Annual leave	101,162	87,165
48/52 Salary Purchasing	1,152	0
Long service leave	235,842	261,113
Other - On-costs (I)	36,761	36,276
	<u>374,917</u>	<u>384,554</u>
Non-current		
Long service leave	120,536	152,123
Other - On-costs (I)	12,681	15,877
	<u>133,217</u>	<u>168,000</u>

(1) The settlement of annual and long service leave liabilities gives rise to the payment of employment on-costs including superannuation and RiskCover premiums. The liability for such on-costs is included here. The associated expense is included under other related expenses (under Employee expenses) at Note 4.

The Office considers the carrying amount of employee benefits to approximate the net fair value.

#### Employee Benefit Liabilities

The aggregate employee entitlement liability recognised and included in the financial statements is as follows:

Provision for employee entitlements		
Current	374,917	384,554
Non-current	133,217	168,000
	<u>508,134</u>	<u>552,554</u>

	2002/03	2001/02
	\$	\$
<b>18 Other Liabilities</b>		
Accrued Salaries		
Amounts owing for the working days between the end of the last pay period for the financial year end 30 June.		
2003 – 7 working days	44,866	
2002 – 6 working days	<u>          </u>	<u>42,346</u>

Accrued salaries are settled within a few days of the financial year end. The carrying amount of accrued salaries is equivalent to the net fair value.

**19 Equity**

Equity represents the residual interest in the net assets of the Office. The Government holds the equity interest in the Office on behalf of the community. The asset revaluation reserve represents that portion of equity resulting from the revaluation of non-current assets.

Contributed equity		
Opening balance	68,000	
Capital Contributions (I)	528,000	68,000
Closing Balance	<u>596,000</u>	<u>68,000</u>

(I) Capital contributions have been designated as contributions by owners and are credited directly to equity in the Statement of Financial Position.

Reserves

Opening balance	5,117	5,117
Net revaluations increments/(decrements)		
Land	0	0
Buildings	0	0
Motor vehicles	0	0
Closing balance	<u>5,117</u>	<u>5,117</u>

(I) The asset revaluation reserve is used to record increments and decrements on the revaluation of non-current assets, as described in accounting policy note 2(g).

Accumulated surplus		
Balance at the beginning of the year	(144,928)	(132,905)
Change in net assets resulting from operations	105,130	(12,023)
	<u>(39,798)</u>	<u>(144,928)</u>



	2002/03 \$	2001/02 \$
<b>20 Notes to the Statement of Cash Flows</b>		
<b>(a) Reconciliation of cash</b>		
Cash assets	258,364	186,423
Restricted cash assets (refer to Note 11 )	622,474	150,291
	<u>880,838</u>	<u>336,714</u>
<b>(b) Reconciliation of net cost of services to net cash flows provided by/(used in) operating activities</b>		
Net cost of services (operating statement)	(2,808,548)	(2,754,186)
Non-cash items:		
Depreciation expense	57,083	56,520
Superannuation expense	20,241	4,617
Resources received free of charge	98,437	111,546
(Profit)/loss on sale of property, plant and equipment	8,493	0
(Increase)/decrease in assets:		
Prepayments	1,448	(1,448)
Increase/(decrease) in liabilities:		
Accrued salaries	2,520	(7,891)
Provisions	(9,638)	50,212
Current payables	36,309	(14,527)
Non-current provisions	(34,784)	(40,394)
Change in GST receivables/payables	2,379	(7,682)
Net cash provided by/(used in) operating activities	<u>(2,626,060)</u>	<u>(2,603,233)</u>
<b>21 Lease Commitments</b>		
These commitments relate to motor vehicle leases which are due for payment:		
not later than one year	1,001	7,181
later than one year and not later than 2 years	983	983
	<u>1,001</u>	<u>8,164</u>
Property Lease		
The Commercial Property Branch leases office accommodation on behalf of government agencies under non-cancellable operating leases. At reporting date, the net fair value of this commitment is:		
Within 1 year	182,102	172,031
Later than 1 year and not later than 5 years	507,389	593,634
Later than 5 years	689,491	765,665
	<u>689,491</u>	<u>765,665</u>

**22 Explanatory Statement**

The Summary of Consolidated Fund Appropriations and Revenue Estimates discloses appropriations and other statutes expenditure estimates, the actual expenditures made and revenue estimates and payments into the Consolidated Fund, all on an accrual basis.

The following explanations are provided in accordance with Treasurer's Instruction 945:

Significant variations are considered to be those greater 10%.

**(i) Significant variances between estimates and actual - Total appropriation to purchase outputs:**

No significant variances.

**(ii) Significant variances between actual and prior year – Total appropriation to purchase outputs:**

	Actual 2002/03 \$	Actual 2001/02 \$	Variance \$
<b>Total Appropriation to Purchase Outputs</b>	2,795,000	2,626,000	169,000

The variance is due to provision for general public sector pay increases and higher accommodation lease expenses.

**Total Output Expenditure**

Output 1	1,095,321	1,274,439	(179,118)
Output 2	1,702,890	1,470,699	232,191
Output 3	44,984	40,095	4,889
	<b>2,843,195</b>	<b>2,785,233</b>	<b>57,962</b>

The variances for Output 1 and Output 2 are due to the reallocation of staff between outputs to meet workload demands.

**(iii) Significant variances between estimate and actual – Capital Contribution:**

<b>Capital</b>	Estimate 2002/03 \$	Actual 2002/03 \$	Variance \$
<b>Capital Contribution</b>	92,000	528,000	436,000

The variance is due to funding provided for collocation of the Ombudsman's Office with other accountability agencies.

<b>Capital Expenditure</b>	92,000	28,914	(63,086)
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The variance is due to delaying computer replacement to ensure new equipment meets collocation requirements.

**(iv) Significant variances between actual and prior year actual – Capital Contribution:**

	<b>Actual 2002/03 \$</b>	<b>Actual 2001/02 \$</b>	<b>Variance \$</b>
<b>Capital Contribution</b>	528,000	68,000	460,000

The variance is due to funding provided for collocation of the Ombudsman's Office with other accountability agencies.

<b>Capital Expenditure</b>	28,914	44,062	(15,148)
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The variance is due to delaying computer replacement to ensure new equipment meets collocation requirement

**23 Remuneration and Retirement Benefits of Senior Officers***Remuneration*

The number of senior officers whose total of fees, salaries and other benefits received, or due and receivable, for the financial year, who fall within the following bands is:

\$		
70,001 - 80,000		1
100,001 - 110,000	2	2
130,001 - 140,000		1
160,001 - 170,000		1
200,001 - 210,000	1	
250,001 - 260,000	1	

The total remuneration of senior officers was: (I) 670,571      591,073

(I) Previous year figure includes superannuation

No senior officers are members of the Superannuation and Family Benefits Act Scheme.

**24 Additional Financial Instruments Disclosures****(a) Interest rate risk exposure**

The Office's exposure to interest rate risk is nil as the relevant financial instruments, consisting of cash and amounts in suspense, accounts payable, accrued salaries and employee entitlements are all non-interest bearing.

**(b) Credit risk exposure**

The Office's exposure to credit risk is nil as there are no amounts receivable.

(c) The carrying amount of financial assets and financial liabilities recorded in the financial statements are not materially different from their net fair values, determined in accordance with the accounting policies disclosed in Note 2.

	<b>2002/03</b>	<b>2001/02</b>
<u>Financial Assets</u>	Non-Interest Bearing	Non-Interest Bearing
	\$	\$
Cash Resources	258,364	186,423
Restricted cash assets	622,474	150,291
Prepayments	0	1,448
Holding account	159,000	72,000
Receivables	7,009	9,387
Total Financial Assets	1,046,847	419,549
 <u>Financial Liabilities</u>		
Accounts Payable	58,191	58,784
Accrued Salaries	44,866	42,346
Provisions	508,133	552,553
Total Financial Liabilities	611,190	653,683
Net Financial Assets/(Liabilities)	435,657	(234,134)

**25 Indian Ocean Territories**

The Indian Ocean Territories Reimbursement Fund was established in March 1996 and became operational in July 1996.

The purpose of the Fund is to meet the cost of the services of the Office in relation to complaints involving the Indian Ocean Territories.

The balance of the Fund at the end of the financial year is included in the Office's Operating Account.

The figures presented below for the Fund have been prepared on a cash basis.

	<b>2002/03</b>	<b>2001/02</b>
	\$	\$
Opening Balance	15,573	11,001
Receipts	0	4,572
Payments	0	0
Closing Balance	15,573	15,573



## AUDITOR GENERAL

### INDEPENDENT AUDIT OPINION

To the Parliament of Western Australia

### PARLIAMENTARY COMMISSIONER FOR ADMINISTRATIVE INVESTIGATIONS FINANCIAL STATEMENTS FOR THE YEAR ENDED JUNE 30, 2003

#### Audit Opinion

In my opinion,

- (i) the controls exercised by the Parliamentary Commissioner for Administrative Investigations provide reasonable assurance that the receipt and expenditure of moneys, the acquisition and disposal of property, and the incurring of liabilities have been in accordance with legislative provisions; and
- (ii) the financial statements are based on proper accounts and present fairly in accordance with applicable Accounting Standards and other mandatory professional reporting requirements in Australia and the Treasurer's Instructions, the financial position of the Parliamentary Commissioner at June 30, 2003 and its financial performance and cash flows for the year ended on that date.

#### Scope

##### *The Parliamentary Commissioner's Role*

The Parliamentary Commissioner is responsible for keeping proper accounts and maintaining adequate systems of internal control, preparing the financial statements, and complying with the Financial Administration and Audit Act 1985 (the Act) and other relevant written law.

The financial statements consist of the Statement of Financial Performance, Statement of Financial Position, Statement of Cash Flows, Output Schedule of Expenses and Revenues, Summary of Consolidated Fund Appropriations and Revenue Estimates, and the Notes to the Financial Statements.

##### *Summary of my Role*

As required by the Act, I have independently audited the accounts and financial statements to express an opinion on the controls and financial statements. This was done by looking at a sample of the evidence.

An audit does not guarantee that every amount and disclosure in the financial statements is error free. The term "reasonable assurance" recognises that an audit does not examine all evidence and every transaction. However, my audit procedures should identify errors or omissions significant enough to adversely affect the decisions of users of the financial statements.

D D R PEARSON  
AUDITOR GENERAL  
October 20, 2003