

Report on Operations

Complaints and Enquiries

Introduction

This section provides an overview of one of the Ombudsman's core functions – complaint investigation and resolution. It also covers the enquiry function handled by the office. Information is provided on the number and nature of complaints and enquiries, as well as case studies that demonstrate the range and possible outcomes to the complaints dealt with. Information is also provided on four areas that made up approximately 50 percent of all complaints received during the year. These are corrective services, local government, public housing and public education.

Complaints and Enquiries Received in 2007-08

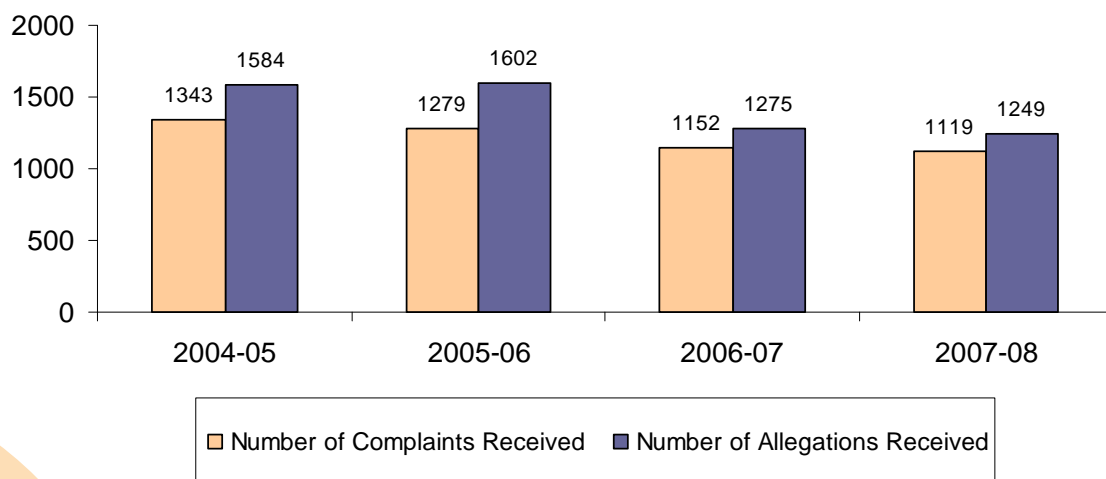
Complaints Received

The Ombudsman's office investigates complaints from people adversely affected by administrative actions or omissions by Western Australian public authorities and makes recommendations to redress defective administration and prevent its reoccurrence. An investigation examines the decisions, actions and practices of public authorities to determine if they are fair, reasonable and within the law. Some complaints are complex and include a number of different allegations.

The amount of work involved in an investigation varies considerably from case to case. In terms of these statistics, there is no quantitative or qualitative weighting of relative importance or complexity. Complex allegations and those requiring major investigations are treated in the same way statistically as straightforward ones.

As seen in the chart below, the number of complaints and allegations handled by the office in 2007-08 has remained relatively steady after a decline in 2006-07. The office received 1,119 complaints involving 1,249 separate allegations during the year and finalised 1,244 allegations.

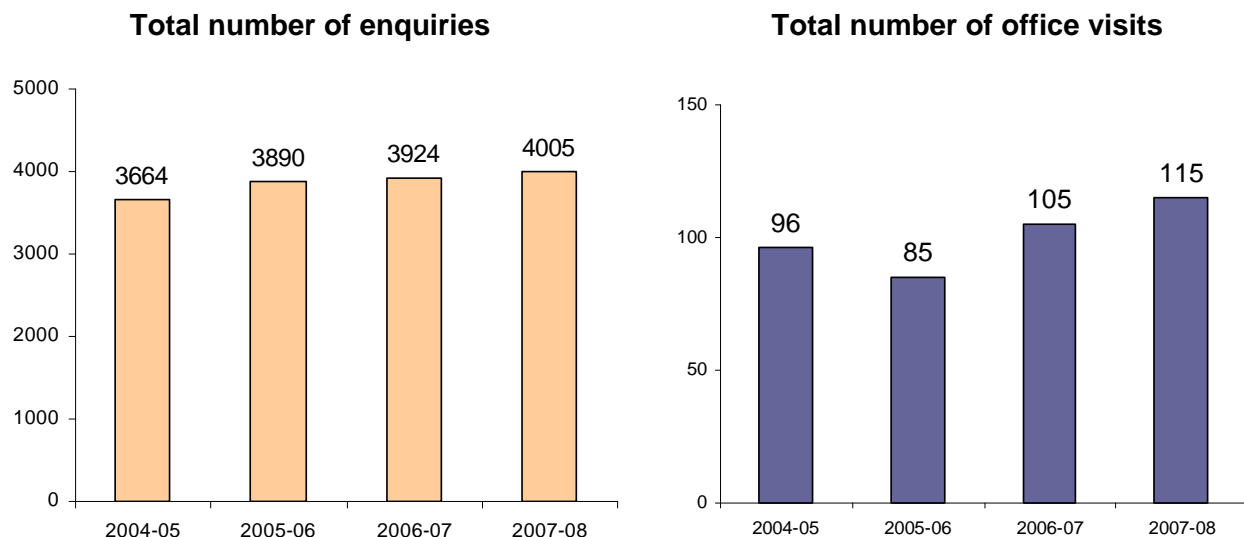
Number of Complaints and Allegations Received



There is increasing use of email to make complaints and this has resulted in an increase in complaints where the location is unknown; 18 per cent in 2007-08 compared to 10 per cent in 2006-07. Of the allegations where the geographical location is known, 31 per cent are from country locations, a decline from 33 per cent in 2006-07. Many (33%) of the complaints from country locations are from regional prisoners. If complaint issues from prisoners are excluded, the percentage of all complaints received from country locations falls to 17 per cent. The office has prioritised the development of strategies to improve access for Indigenous people and people from regional locations. The decline in allegations from regional locations highlights the importance of these strategies.

Enquiries Received

The office also handles thousands of telephone enquiries each year and a number of people visit the office to make enquiries. Some enquiries are from people seeking general information and some are from public authorities and other accountability agencies seeking advice but most are from people seeking advice on how to make a complaint. As far as possible the office provides advice and assistance to enquirers. Where the person's complaint relates to a matter outside of the Ombudsman's jurisdiction, they are generally referred to an appropriate alternative agency. If the matter is within the Ombudsman's jurisdiction but the person has not already raised the matter with the public authority concerned, they are referred back to the relevant public authority in the first instance. They are advised to come back to the Ombudsman if the matter is not resolved by the authority. As seen in the charts below, over the past three years there has been an increasing number of enquiries, particularly visits to the office. In 2007-08 the office handled 4,005 enquiries including 115 from people coming into the office.



In recent years, while there has been some decline in the number of complaints, there has been an increase in the complexity of complaints made to the office, affecting both the time and level of skills needed to undertake investigations. Ombudsmen in other jurisdictions have reported a similar trend.

A range of factors may be contributing to the trend to increased complexity in complaints. The enquiry service provided by the office encourages people to raise their concerns directly with the

public authority in the first instance. In addition, the office has undertaken considerable work with public authorities to assist them to improve their internal complaint-handling systems, particularly since the introduction of the Government's policy on complaint handling in 2004. This year, the Ombudsman's office worked closely with the Department of Corrective Services and the Department for Child Protection.

The increasing use of the enquiry service, in conjunction with improved internal complaint handling processes may mean straightforward complaints are being resolved by the public authorities. As a result, the complaints referred to the Ombudsman have declined slightly in number but tend to be the more complex and intractable matters. Internal resolution of complaints is a positive outcome for complainants and public authorities, and means that the resources and expertise of the office can be directed to the areas where they are most needed.

Case Study

Quick corrections prevent missed mortgage payments

A State Government employee had been salary sacrificing through a company contracted by their employer. Part of the arrangement involved salary sacrificing an amount that was due to go into a mortgage account. However, the complainant discovered that the amount was not credited to the mortgage but was being retained by the company because it had overpaid the complainant the previous year.

The complainant telephoned the Ombudsman's enquiry service about the matter.

Ombudsman staff contacted the relevant Government agency for advice. The agency advised that, generally, complaints about salary sacrificing should initially be taken up with the company and then the payroll area of a person's employing agency. If it could not be resolved after going through those stages, then the agency became involved. However, given that this situation involved missed mortgage repayments with potentially serious ramifications for the complainant, the agency offered to assist immediately.

This case shows how the Ombudsman's office can help to resolve enquiries quickly and informally.

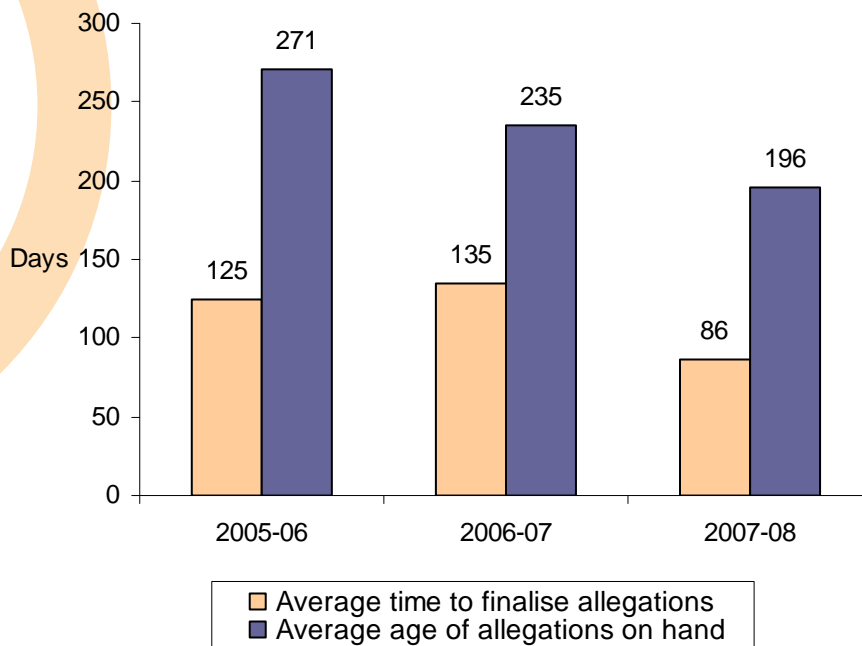
Timeliness of Complaint Handling in 2007-08

Over the past year, there was a continued strong focus on reducing the backlog of older cases and improving the timeliness of investigations. The office strives to resolve complaints quickly and informally, where appropriate, without undertaking detailed investigation. More than three quarters of complaints (82%) received during the year were finalised at the initial assessment stage. This is slightly higher than the previous year, when 77 per cent were finalised at the initial stage.

By giving priority to early resolution of new complaints and older, more complex cases, the office has achieved a substantial improvement in the time taken to handle complaints.

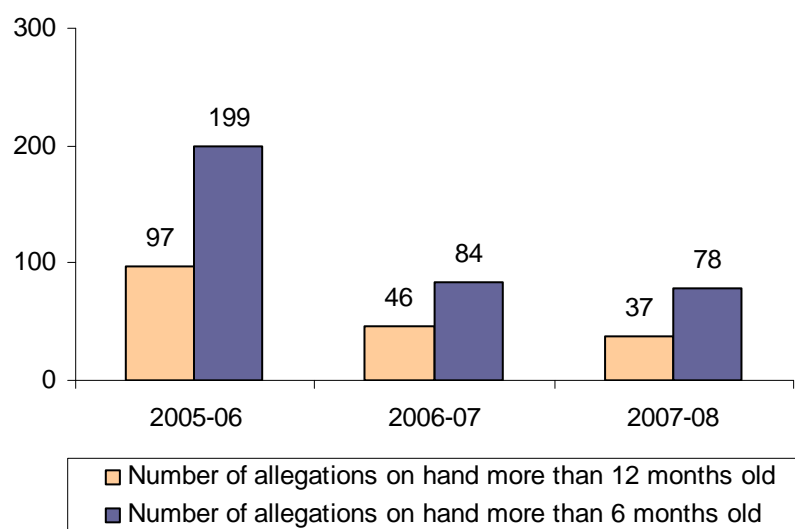
As shown in the chart below, the key achievements have been:

- a reduction in the last year of 17 per cent in the average age of allegations on hand at 30 June (the reduction over the last two years has been 31%); and
- a reduction of 36 per cent in the last year in the average time taken to finalise allegations.

Average age of allegations

The office has also reduced the number of older cases on hand. The number of allegations on hand more than 12 months old fell by 20 per cent over the year (from 46 at 30 June 2007 to 37 at 30 June 2008). The office was also successful in reducing the number of cases older than six months from 84 to 78 over the same period. Overall, the average age of allegations on hand at 30 June 2008 had fallen from 235 days in 2006-07 to 196 days in 2007-08.

Most complaints (78%) are now resolved within three months and only a small percentage (5%), generally the highly complex complaints, take more than 12 months. The improving trend in the time taken to handle complaints is shown by the continuing reduction in the number of complaints more than six months old and more than 12 months old as shown adjacent chart. Timely complaint handling will continue to be a focus for the office.

Allegations on hand

Complaints and Allegations Finalised

In 2007-08, the majority of complaints (82%) were finalised at the initial stage, for the following reasons:

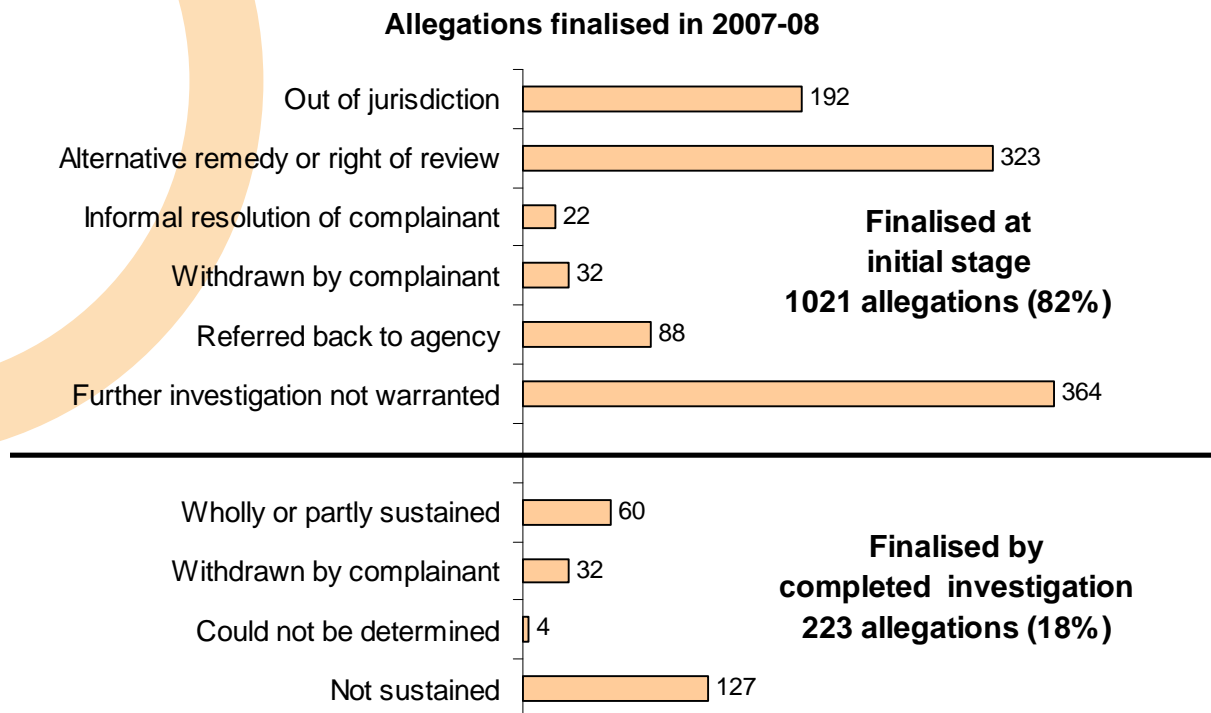
- An assessment is made that the complaint is out of jurisdiction, usually because it relates to the decision of a Minister or Cabinet, is not an administrative matter, or the public authority complained about is not covered by the Ombudsman's jurisdiction;
- The complainant has an alternative legal remedy or right of review or appeal where it is reasonable to expect the complainant to resort to that remedy;
- The complaint has been informally resolved to the satisfaction of the complainant;
- The complainant withdraws the complaint or decides not to proceed, for example if the person is satisfied with an explanation provided by the public authority;
- The matter is referred back to the public authority, for example, where the public authority is still investigating the complaint. In this case it may come back to the Ombudsman if the matter is not resolved by the authority; or
- Further investigation does not appear to be warranted in the circumstances. This may occur where initial investigation reveals another body, such as the Corruption and Crime Commission, may be more appropriate (or is already investigating the matter), the matter is more than 12 months old, is not an administrative matter, the complainant does not have sufficient personal interest in the matter or, in rare circumstances, where the complaint appears to be frivolous, trivial, vexatious, or not in good faith.

This stage generally involves obtaining further material from the complainant and contact with the public authority to determine its perspective. It may also involve contact with other complaint handling bodies to determine their involvement. The complainant is given reasons for any decision not to investigate or to cease investigation and is referred to an alternative where possible.

The remaining complaints (18%) were finalised following a completed investigation with one of the following outcomes:

- The complaint was wholly or partly sustained. In these cases the Ombudsman makes recommendations for remedial action for the complainant and to improve administrative practices to prevent reoccurrence;
- The complainant withdrew the complaint; or
- The complaint was not sustained. In some cases the investigation process highlights areas for improvement to administrative practices and the authority may advise the Ombudsman of voluntary action to make appropriate changes.

The number of complaints finalised during the reporting period was 1,093. These contained 1,244 allegations finalised as shown in the chart below.



This year 57 per cent of allegations investigated were not sustained. In many cases, the Ombudsman concluded that the agency had acted reasonably and within its powers. However, some allegations could not be sustained due to a conflict of evidence that could not be resolved. While a complainant may believe a public officer has acted unreasonably, it is often found that the cause is simply human error.

Case Study

Informal process allows early resolution

A university student commenced a Bachelor degree but experienced a number of medical problems during their studies that affected their performance. The student's course advisor suggested that they undertake units from a related discipline to allow them to complete their degree.

After taking that advice, the student was later informed that their course progress had not been satisfactory and their academic status had been terminated. By that time the student had spent four years and invested a large amount of money on their studies.

The student requested a transfer to an alternative degree course but the university said their grade average was too low and the mix of units they had undertaken was not related to a specific degree.

Ombudsman staff contacted the university and sought information about its termination process. As a consequence, the university examined the paperwork and agreed to allow the student to enrol in a related degree, subject to the fulfilment of a number of prescribed conditions. The student agreed to the offer and the matter was swiftly and informally resolved to their satisfaction.

This case demonstrates that public authorities can resolve issues informally and quickly when brought to their attention.

Remedial Action to Benefit the Complainant

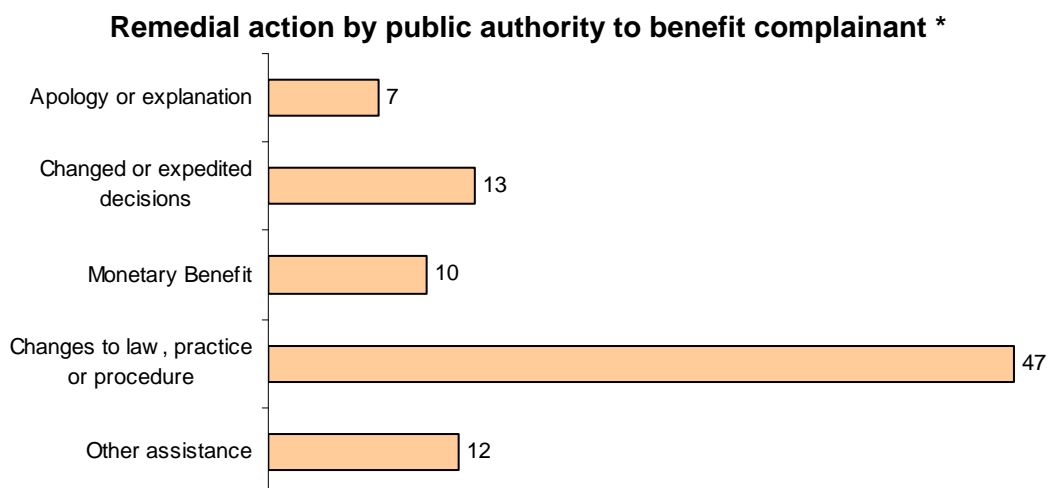
Complainants look to the Ombudsman to facilitate some form of assistance or action to remedy the problem they have complained about. Such assistance may involve the public authority:

- issuing an apology;
- expediting action;
- making an act of grace payment or reducing or withdrawing a monetary charge or infringement;
- providing a refund or rebate;
- reversing or varying a decision; and/or
- providing an explanation or giving reasons for action taken.

In some cases the complainant benefits from the involvement of the Ombudsman even though the complaint is not sustained, for example, where the authority voluntarily changes its practices. The office may also assist a complainant by providing advice about where to take their complaint if it is about something that the Ombudsman cannot deal with.

The Ombudsman's role is to provide an independent and impartial investigation of complaints. The percentage of complaints where assistance is provided to the complainant varies from year to year depending on the nature of the allegations received and is not a measure of the office's performance. In 2007-08 assistance was provided to the complainant, either through remedial action or through advice about where to take their complaint, for 22 per cent of allegations finalised, an increase from 14 per cent in the previous year.

The remedial action by public authorities to benefit the complainant as a result of Ombudsman investigations is shown in the chart below.



* Changes to law, practice and procedure can occur that may not immediately benefit the complainant but may benefit them and others in the future. For example, the remedial actions that resulted from a complaint from a female prisoner that she was subjected to a forced body search in the presence of male officers led to changes to policies and procedures regarding such actions, particularly in relation to the use of force and the preservation of dignity.

Remedial Action to Improve Public Administration

Improved administration may include changes to policy and procedures or other changes to improve systems, improve record-keeping and training of staff. A key role of the Ombudsman is to improve administrative decision making and practices in public authorities. One important way to do this is through recommendations or suggestions for improvements to processes or procedures as a result of shortcomings identified during the office's enquiries. An agency may also voluntarily take action to improve its administrative practices as a result of the Ombudsman's enquiries.

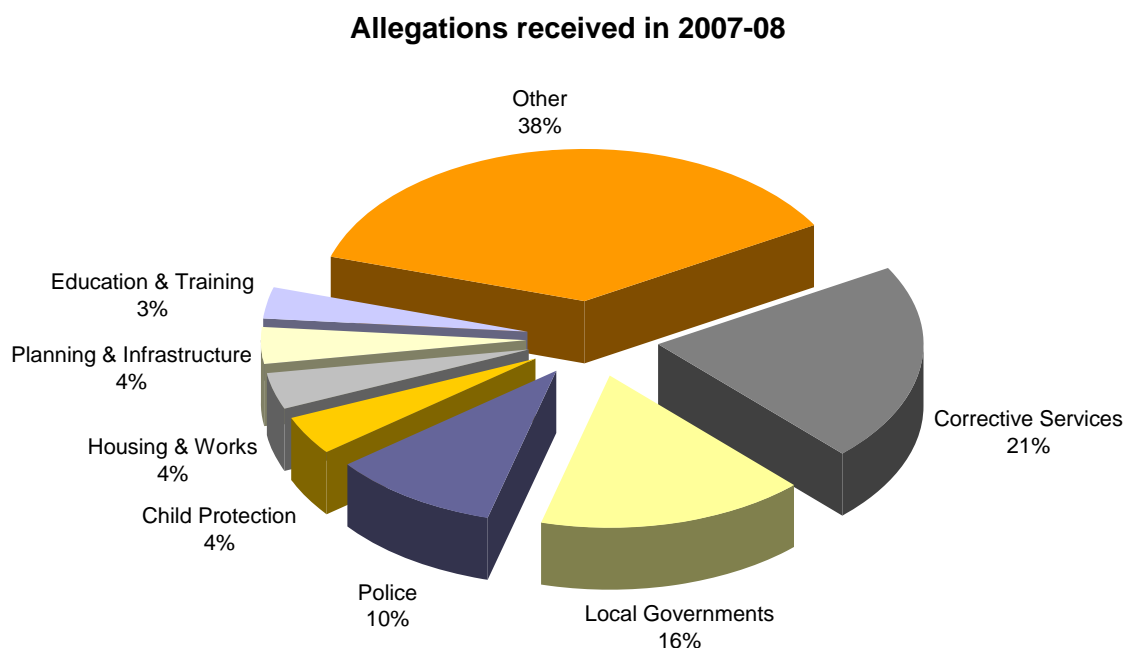
In 2007-08, administrative improvements agreed to by agencies as a result of the Ombudsman's investigations resulted in:

- 34 recommendations and suggestions for administrative improvement accepted by the public authorities; and
- 22 voluntary actions by public authorities as a result of the Ombudsman's involvement.

Further details on work undertaken by the Ombudsman to improve administrative practices and decision making are included in the section on Improved Public Administration later in this report.

Primary Focus of Agency Complaints

The majority of complaints are received from seven key areas as shown below.



This section of the report provides additional information about those key areas that the Ombudsman's office deals with regarding complaints. It focuses on the two that are the source of the largest number of complaints; corrective services (in particular prisons) and local governments. It also includes additional information about public housing and works, and public education. These two sectors have smaller complaint numbers but provide important services to the community. Each of these four areas gives a good overview of the office's work over the reporting year.

Even though complaints about police comprise 10 per cent of all complaints made to the Ombudsman, a large number of these are referred to other sources of assistance, such as the Corruption and Crime Commission, or involve issues that can be remedied in a Court of Law so the Ombudsman would generally not investigate such complaints. A significant number of complaints received related to planning and infrastructure, which serves many functions in the community. Many complaints about this area can be dealt with through the State Administrative Tribunal or a Court of Law and the Ombudsman would not generally investigate such complaints.

Corrective Services

Of the allegations received in 2007-08, 21 per cent related to corrective services. The [Parliamentary Commissioner Act 1971](#) provides for complaints from people in custody, including their entitlement to be provided with facilities to write to the Ombudsman's office and send their letters in special envelopes provided at the prisons. The envelopes are marked 'confidential' and deposited in a locked box for confidential mail. There is no requirement for prisoners to identify themselves on the confidential envelopes. This box is separate from other mail that requires scrutiny by prison staff in accordance with the *Prisons Act 1981*. Prisoners can also make free, confidential telephone calls to the Ombudsman's office.

In January 2008, the Complaints Administration Unit of the Department of Corrective Services became fully operational. The Unit is responsible for the management of complaints, compliments and suggestions from department staff, adults in custody, and the public. The complaints system is called 'ACCESS', and it provides discrete telephone lines for staff, the public, and prisoners. The ACCESS 'Custodial' line enables prisoners to make free, confidential calls to ACCESS. The Unit was established partly in response to the Ombudsman's and the Inspector of Custodial Services' concerns that the prisoner grievance system was not suitable for all prisoners, particularly Indigenous prisoners.

The Ombudsman's office is committed to continuing to work cooperatively with the Department of Corrective Services and Serco (Acacia Prison) and to maintaining the office's relationship with the Department of Corrective Services' Complaints Administration Unit.

Allegations Received

There were 285 allegations received about corrective services during 2007-08. Of these, 250 related to prisons (including 21 relating to Acacia Prison, a private prison run by SERCO). Since 2004-05 there has been a decline in the number of complaints about prisons, which has continued this year as shown below. The office has undertaken considerable work with the Department of Corrective Services in assisting them to develop their internal complaint-handling systems and providing training to trainee prison officers, and the decline may be due to improved practices and internal complaint management, partly as a result of these activities.

Allegations received about corrective services

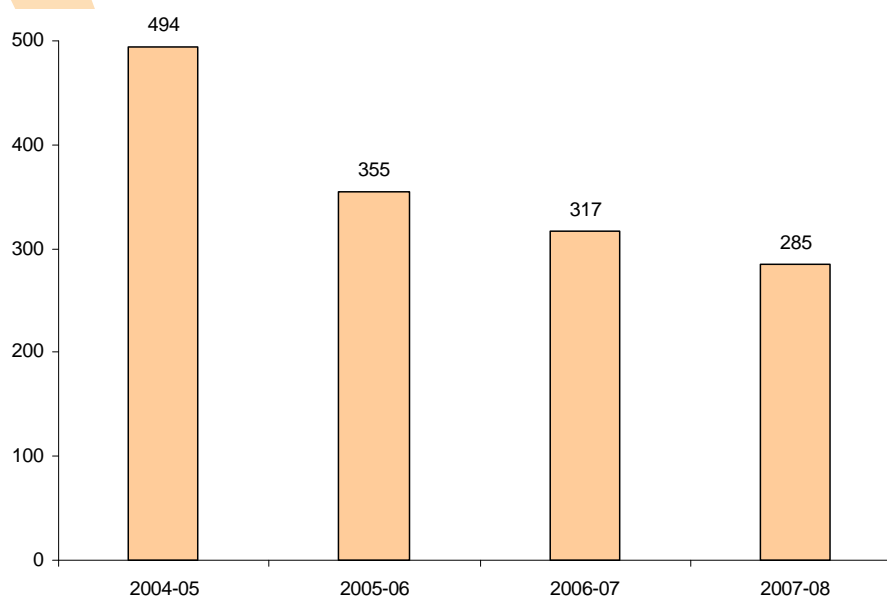


Table 4 shows the source of allegations received over the past four reporting years.

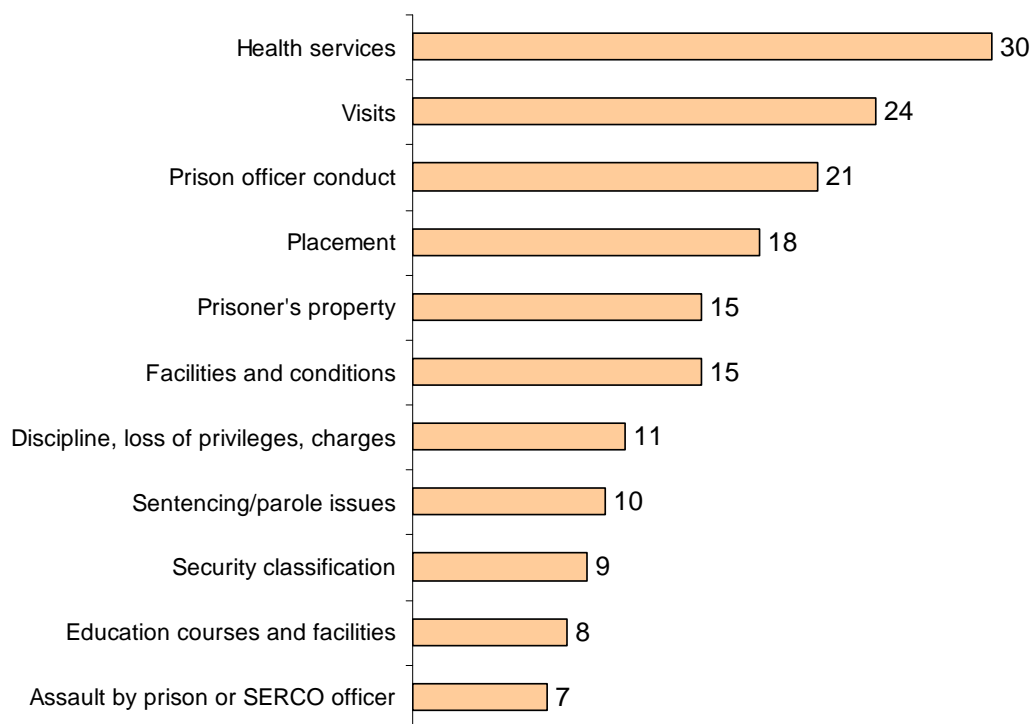
Table 4 – Source of allegations received about corrective services

	2004-05		2005-06		2006-07		2007-08	
Acacia Prison (Serco)	107	23%	50	14%	22	7%	21	7%
Acacia Prison (Department of Corrective Services)	18	4%	4	1%	34	11%	14	5%
Albany Regional Prison	13	3%	10	3%	32	10%	13	5%
Bandyup Women's Prison	30	6%	20	6%	30	9%	25	9%
Banksia Hill Detention Centre	0	0%	1	<1%	1	<1%	1	-
Boronia Pre-release Centre for Women	Opened 2006		10	3%	2	1%	1	-
Broome Regional Prison	2	<1%	5	1%	10	3%	7	2%
Bunbury Regional Prison	13	3%	6	2%	14	4%	16	6%
Casuarina Prison	105	21%	57	16%	48	15%	56	20%
Eastern Goldfields Regional Prison	19	4%	12	3%	3	1%	3	1%
Greenough Regional Prison	10	2%	9	2%	15	5%	10	4%
Hakea Prison	92	18%	87	24%	60	19%	48	17%
Karnet Prison Farm	9	2%	6	2%	7	2%	6	2%
Nyandi Prison	5	1%	Closed					
Rangeview Remand Centre	3	<1%	3	1%	5	2%	2	1%
Roebourne Prison	9	2%	6	2%	2	1%	12	4%
Wooroloo Prison Farm	6	1%	6	2%	8	3%	7	2%
Not allocated to a prison	53	10%	63	18%	24	7%	43	15%
TOTAL	494	100%	355	100%	317	100%	285	100%

Nature of Allegations Received

Most prison-related allegations (168) relate to the areas shown in the chart below. There are also small numbers of complaints about areas such as communications, the prisoner grievance procedure, food and diet, transport, individual management plans, drug detection, protection, rehabilitation, prisoner employment and authorised absences/funerals.

Nature of prison allegations in 2007-08



Allegations Finalised

This year, 265 allegations about corrective services were finalised, as shown in Tables 5 (a) and (b).

Table 5 (a) – Allegations finalised at initial stage

	Number of allegations	% (approx)
Out of jurisdiction	9	3%
Alternative remedy or right of review	108	42%
Informal resolution of complaint	1	>1%
Withdrawn by complainant	11	4%
Referred back to agency	30	12%
Further investigation not warranted *	99	38%
Total allegations finalised at initial stage	258	100%

* Includes cases where enquiries were made and assistance provided without further investigation.

Table 5 (b) – Allegations finalised by completed investigation

	Number of allegations	% (approx)
Sustained wholly or partly	3	43%
Withdrawn by complainant	0	0%
Could not be determined	0	0%
Not sustained	4	57%
Total allegations finalised by completed investigation	7	100%

Remedial Action to Benefit Complainant or to Improve Public Administration

Examples of remedial action provided to complainants and action to improve public administration as a result of recommendations made by the Ombudsman or voluntary action by the Department of Corrective Services included:

- the development of strategies by the Department of Corrective Services, in conjunction with the Disability Services Commission, to better address the needs of prisoners with intellectual disabilities that will benefit the complainant and other prisoners in the future; and
- a review by the Department of Corrective Services of the predator policy within prisons to ensure that prisoners subjected to this policy are given clear information about their appeal rights that will benefit the complainant and other prisoners in the future.

Case Study

Return to court results in reduced sentence

The Ombudsman's office is able to act as a circuit-breaker in complex cases. An example is the case of a prisoner who complained that the agency responsible for calculating prison sentences had incorrectly calculated their sentence and eligibility for parole.

In effect, the agency interpreted the prisoner's sentence to mean one thing, while the judge believed the agency had misinterpreted the statute.

The Ombudsman's office arranged for the agency to seek advice from the State Solicitor's Office, who confirmed the way the agency had calculated the sentence. The agency then invited the judge to reconsider his views about the matter.

Solicitors for the prisoner, supported by comments from the sentencing judge, believed the agency had misinterpreted the legislation and the effect on the prisoner's sentence.

At this hearing, the original sentence was set aside, and the agency recalculated the prisoner's new sentence in the manner intended by the judge. The end result was that although the prisoner's complaint that the agency had miscalculated their sentence was not upheld, they became eligible for parole two years earlier than under the original sentence.

This case illustrates how the complaint process may result in benefits for the complainant or improved public administration even though the complaint itself is not sustained.

Local Government

The local government sector provides a diverse range of services to local communities. Many of these services, including planning and building approvals, community facilities, parking enforcement, maintenance of local roads and footpaths and control of animals such as dogs have the potential to generate complaints. Complaints about local governments accounted for the second largest number of complaints received during the year.

Allegations Received

During the year, 204 allegations were received about the administrative practices of 63 of the 141 local governments that fall within the Ombudsman's jurisdiction. Overall, allegations about local governments represented 16 per cent of all allegations received by the office in the reporting period. The number of allegations received has remained relatively steady over the last four years as seen below.

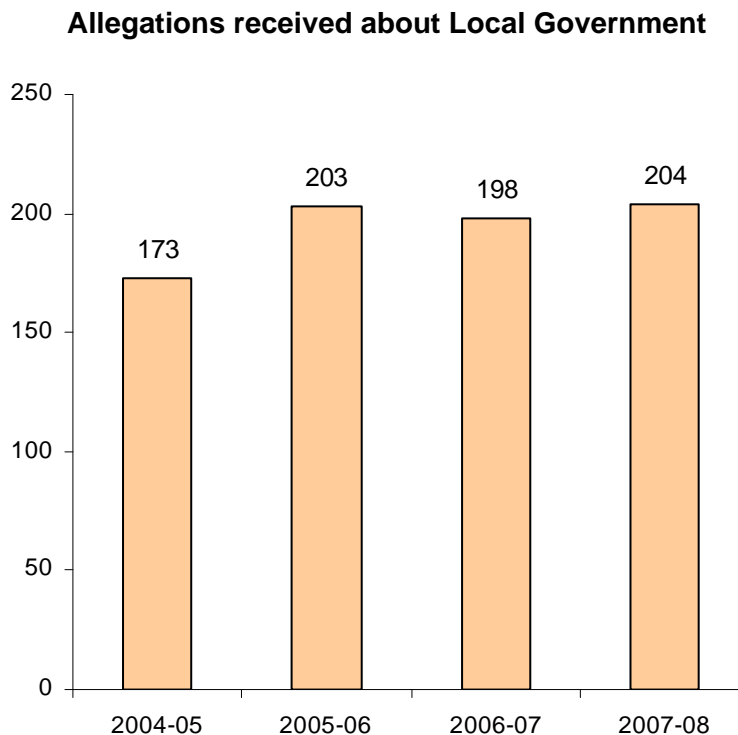


Table 6 shows the main sources of allegations in the last four years, showing local governments that have had 10 or more complaints made about them in 2006-07 or 2007-08.

Table 6 – Source of allegations received about local governments

	2004-05		2005-06		2006-07		2007-08	
	Number received	Approx. %	Number received	Approx. %	Number received	Approx. %	Number received	Approx. %
Town of Cambridge	11	6%	3	2%	5	3%	4	2%
City of Canning	4	2%	2	1%	12	6%	5	3%
City of Cockburn	6	4%	6	3%	12	6%	6	3%
City of Gosnells	13	8%	23	11%	10	5%	8	4%
City of Joondalup	6	4%	7	3%	3	2%	9	4%
City of Melville	3	2%	13	6%	9	5%	12	6%
Shire of Murray	10	6%	6	3%	1	1%	1	1%
City of Stirling	12	7%	18	9%	5	3%	12	6%
City of Swan	4	2%	12	6%	10	5%	19	9%
Shire of Toodyay	0	0%	1	1%	11	6%	3	1%
Town of Vincent	7	4%	4	2%	1	1%	8	4%
Other local governments	97	55%	108	53%	119	57%	117	57%
TOTAL	173	100%	203	100%	198	100%	204	100%

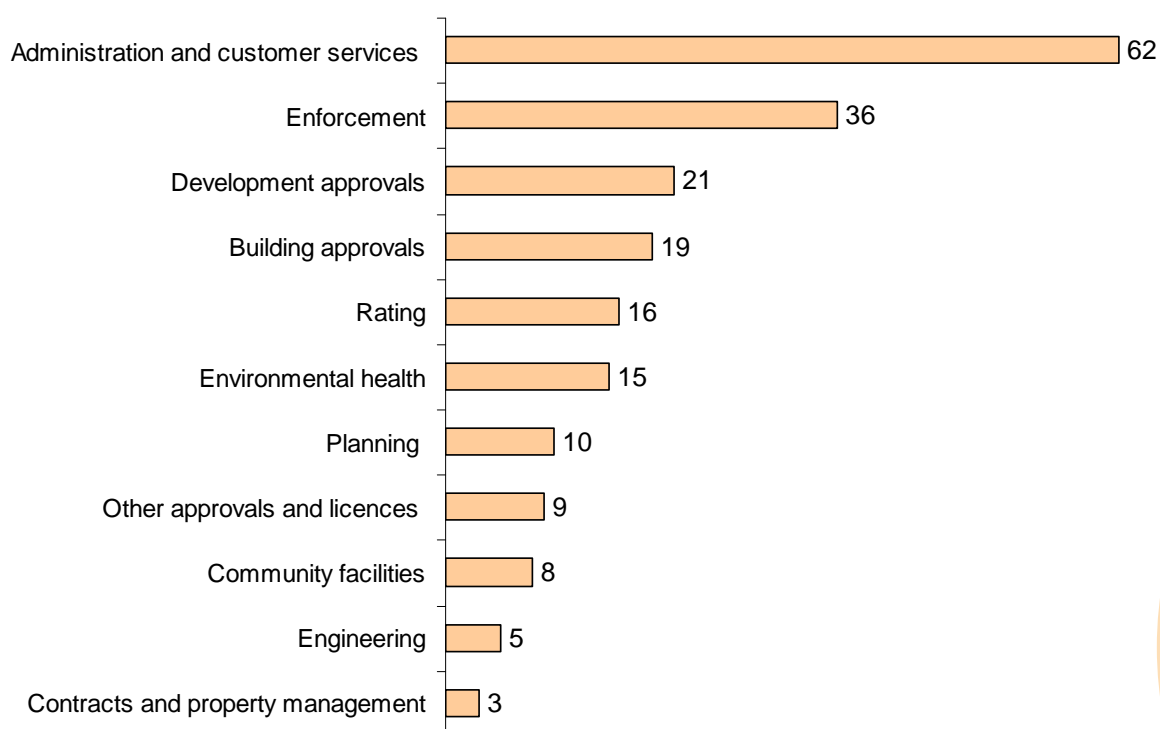
Nature of Allegations

The largest number of allegations received about local governments (30%) related to administration and customer services. These include complaint handling, provision of information, conduct of officers/councillors, elections, liability claims, meetings and resumption of property.

There were also a large number of allegations (25%) related to building, development and planning services, which includes construction and demolition matters, objections to applications and conditions/refusals of applications.

Local government enforcement actions accounted for 15 per cent of allegations received. This relates to action on unauthorised development/use/buildings, control of animals, enforcement of development and building conditions, enforcement of other statutes/local laws, fire control, parking and traffic enforcement.

Nature of Local Government allegations in 2007-08



Allegations Finalised

This year, 218 local government allegations were finalised, as shown in Table 7 (a) and (b) below.

Table 7 (a)- Allegations finalised at initial stage

	Number of allegations	% (approx)
Out of jurisdiction	2	1%
Alternative remedy or right of review	38	29%
Informal resolution of complaint	5	4%
Withdrawn by complainant	9	7%
Referred back to agency	12	9%
Further investigation not warranted *	65	50%
Total allegations finalised at initial stage	131	100%

* Includes cases where enquiries were made and assistance provided without further investigation.

Table 7 (b) – Allegations finalised by completed investigation

	Number of allegations	% (approx)
Sustained wholly or partly	18	21%
Withdrawn by complainant	3	3%
Could not be determined	4	5%
Not sustained	62	71%
Total allegations finalised by completed investigation	87	100%

Remedial Action to Benefit Complainant and/or to Improve Public Administration

Remedial action provided to complainants as a result of recommendations made by the Ombudsman or voluntary action by the local government for matters finalised in 2007-08 is shown in Table 8. In 2007-08 there were 84 remedial actions that benefited the complainant, compared with 53 in 2006-07.

A high proportion of the allegations finalised resulted in assistance being provided to the complainant by way of an explanation about the actions of the local government complained about and/or the basis of the reasons for those actions.

Table 8 – Remedial action of direct benefit to complainant

	Number of actions
Apology given	2
Explanation provided *	60
Action/decision expedited or reversal or variation of decision	1
Monetary charge reduced, withdrawn or refunded or act of grace payment	1
Other assistance	20**
Direct benefit for complainant	84

* This includes explanations provided by the Ombudsman.

** This includes changes to law, practice or procedure.

Examples of remedial action provided to complainants and action taken to improve public administration as a result of recommendations made by the Ombudsman or voluntary action by the local government included:

- Parking infringements issued to a complainant were withdrawn following negotiation with the local government. While there was no conclusive evidence of problems in the administrative practices of the local government, it recognised that it was reasonable for this to occur in the circumstances;

- The implementation of a number of changes to improve communication about actions impacting on a property owner when reduction burns on property are planned and to provide an opportunity for the complainant to discuss their concerns personally with the local government;
- A review of procedures concerning the authorisation of building work and some remedial work to restore the property affected was directed by the local government;
- In the case of erected signage that impacted on the complainant's view from his home, although the signage was found to be appropriate in the circumstances, the local government agreed that, in the future, it would consider informing local residents of plans to erect signage; and
- A review of communication processes in regards to the handling of complaints by a local government.

Case Study

Complaint about adjoining property development results in changes to local government processes

The owners of two properties wrote to a local government complaining about overlooking and privacy issues resulting from construction of a house on an adjoining property.

Having received no reply or explanation from the local government after three months, the owners individually complained to the Ombudsman. The property owners complained that the local government had not taken adequate steps to:

- ensure planning and/or building application and approvals processes had been followed;
- consult affected adjoining neighbours;
- properly assess the plans and their effect on the adjoining properties; and
- adequately supervise the development or recognise unauthorised works were proceeding.

In response to the Ombudsman's enquiries, the local government recognised the need to improve its procedures for dealing with planning and building matters and advised on a number of initiatives to address issues identified by this case. These included:

- encouraging consultation between developers and neighbours;
- introducing new procedures for dealing with building plans including implementing site visit checklists for application assessment; and
- introducing new procedures for dealing with engineering certification of certain building works.

The local government also recognised the need to improve its complaint handling procedures and advised that, in future, it would require that all written complaints be responded to within 10 days of receipt.

The Chief Executive Officer invited the complainants to meet him to discuss these initiatives and any other matters they wished to raise concerning the adjoining development. The Ombudsman's office considered this was a reasonable course of action.

This case highlights how complaints provide opportunities for public authorities to review their processes and procedures and make improvements for the future.

Public Housing

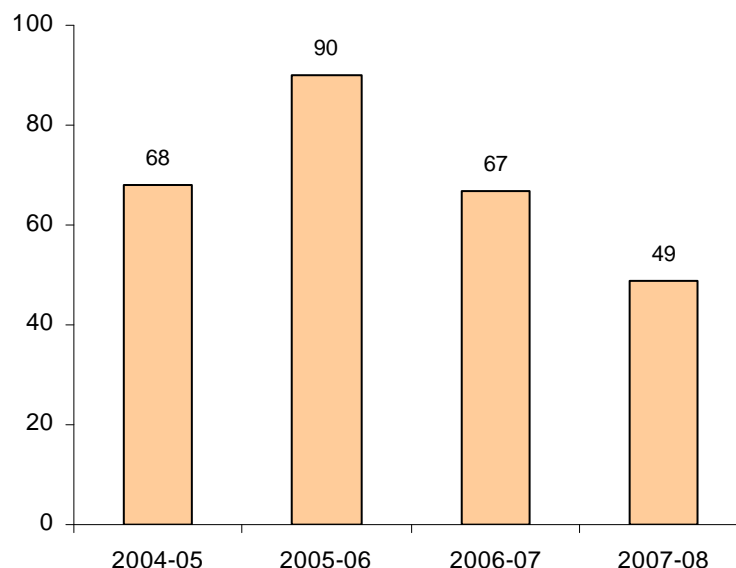
The Department of Housing and Works provides a diverse range of services to the community. These include public and community housing, Indigenous and regional housing, Keystart home loans, property sales, major government projects, capital works projects and property and facilities maintenance and services. Over the last three years, there has been a decline in complaints about housing and works, which now comprise 4 per cent of allegations received by the Ombudsman.

Allegations Received

In 2007-08, there were 46 complaints received about the Department of Housing and Works, involving 49 allegations, the lowest number in the last four years. The majority of complaints about the Department are handled by its internal appeals process and only a small proportion come to the Ombudsman's office. It may be that more complaints are being resolved to the satisfaction of its tenants through that process, thereby reducing the need to complain to this office.

Allegations received are shown below.

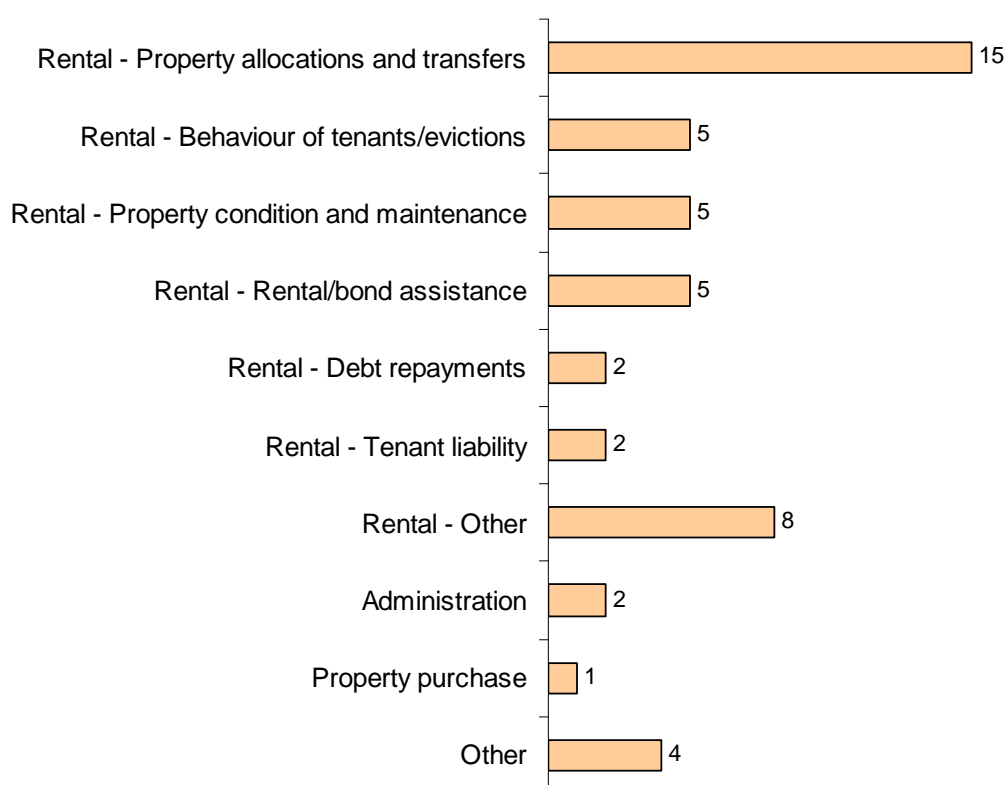
Allegations received about Housing and Works



Nature of Allegations

While the overall number of complaints has decreased in the past year, the range of issues complained about is broadly similar to previous years. Most allegations (86%) concerned the rental operations program of the Department. Of these, the largest number of allegations (31% of all allegations) related to the property allocation and transfer process. A further 10 per cent involved property condition and maintenance issues.

Nature of Housing and Works allegations in 2007-08



Allegations Finalised

Tables 9 (a) and (b) show the outcome of complaints finalised during the reporting period. As with last year, a higher number of allegations (55) were finalised in 2007–08 than were received (49).

Table 9 (a) – Allegations finalised at initial stage

	Number of allegations	% (approx)
Out of jurisdiction	0	0%
Alternative remedy or right of review	10	24%
Informal resolution of complaint	3	7%
Withdrawn by complainant	1	2%
Referred back to agency	2	5%
Further investigation not warranted *	26	62%
Total allegations finalised at initial stage	42	100%

* Includes cases where enquiries were made and assistance provided without further investigation.

Table 9 (b) – Allegations finalised by completed investigation

	Number of allegations	% (approx)
Sustained wholly or partly	4	30%
Withdrawn by complainant	0	0%
Could not be determined	0	0%
Not sustained	9	70%
Total allegations finalised by completed investigation	13	100%

Remedial Action to Benefit Complainant and/or to Improve Public Administration

Remedial action provided to complainants as a result of recommendations made by the Ombudsman or voluntary action by the Department of Housing and Works for matters finalised in 2007-08 is shown in Table 10. In 2007-08 there were nine remedial actions that benefited the complainant compared with 10 in 2006-07.

Table 10 – Remedial action of direct benefit to complainant

	Number of actions
Apology given	1
Action/decision expedited or reversal or variation of decision	1
Monetary charge reduced, withdrawn or refunded or act of grace payment	4
Other assistance *	3
Direct benefit for complainant	9

* Other assistance included changes to law, practice or procedure.

Examples of remedial action provided to complainants and action taken to improve public administration as a result of recommendations made by the Ombudsman or voluntary action by the Department of Housing and Works included:

- A tenant complained that there was outstanding maintenance of a housing and works property he was renting and that this was impacting on his health. His attempts to have the problem dealt with by the Department of Housing and Works had not resolved the problem. The investigation discovered that the Department of Housing and Works thought a contractor engaged by the department had dealt with the issues but this was not the case. Despite efforts made by the Department of Housing and Works to resolve the issues, the dispute became protracted. Following intervention by the Ombudsman, the maintenance issues were expedited;

- A tenant of property for over 15 years was moving to private rental. The Department of Housing and Works deemed the tenant liable for costs to remove and replace items that they deemed to be in a state of disrepair or missing. The liability was disputed by the tenant. An investigation revealed that previous inspections of the property had not identified any issues with the items and there was no evidence that the items were present when the tenant moved into the property or at any other time. The Department of Housing and Works waived all tenant liability and refunded the bond money due to the tenant;
- A tenant moved into a property and the floor tiles were not sealed as they should have been and became dirty and marked. When the tenant vacated the property, attempts to clean the floor made it worse. The tenant was deemed liable for the damage and their bond money was withheld. After intervention by the Ombudsman, the tenant's liability was quashed and the bond money was refunded;
- Another tenant moved into emergency housing that was poorly maintained and was given an undertaking that it would be improved. The work was not done and when he vacated the property, he was held liable for the maintenance issues. Following intervention by the Ombudsman, an apology was issued by the Department of Housing and Works and a rebate credited to the tenant's current rental account to repay the money taken from his bond for the original tenancy; and
- As a result of some of these complaints and a review of its processes, the Department of Housing and Works voluntarily implemented changes to its administrative practices and the functions of some key staff, to ensure pre-vacation inspections are carried out with the tenant present so that these kinds of disputes can be dealt with at that time.

Case Study

Better information for relocated tenants

A public housing tenant and her daughter who had a disability were relocated while their home was refurbished. They understood they would be returning to the property after the refurbishment work was completed. During this period, the tenant passed away. Although the daughter had lived all her life with her mother and had contributed to the rent since she was 16, she was not the legal tenant.

During the refurbishment, the Government agency responsible for the property decided that it was not financially viable to retain the property for rental purposes as the refurbishment costs had far exceeded the estimates obtained. It decided to sell the property, which upset the daughter, who wanted to return to her original home. As she was not the legal tenant, she was concerned about where she would live.

During the Ombudsman's enquiries, the agency acknowledged the impact on the daughter of not being eligible to 'inherit' her mother's former tenancy and it advised that, as a long term household member of the tenancy, it would assist her with some rental accommodation. It agreed to allow the daughter to remain in the property to which she and her mother had been relocated. Alterations were made to the property to make it suitable for the daughter's long term needs.

To avoid similar situations occurring in future and to ensure tenants are made aware that it may not be possible for them to return to their former home following a refurbishment program, the agency advised that it would ensure information was provided to tenants. This would make them aware that refurbished properties may be sold and alternative accommodation found for the tenant.

This case highlights the need to ensure that public authorities keep their customers informed about processes which impact upon them. It also highlights how an agency took action to assist someone affected by a decision it made, and to review and refine its procedures to avoid similar problems occurring.

Public Education Sector

The public education sector includes the Department of Education and Training (including individual schools), the Department of Education Services, the Curriculum Council, Technical and Further Education (TAFE) colleges and public universities.

Allegations Received

During the year 82 allegations were received and a total of 95 allegations were finalised. There has been a significant increase in complaints about public education this year as shown in the chart below. This may be as a result of the introduction of a new [**National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007**](#), which gives international students the right of appeal to an external and independent body, such as the Ombudsman, if their internal appeals were unsuccessful at school or university level. Action to promote the new code is likely to raise awareness about the role of the Ombudsman's office. Further details about the new code are included later in this report.

Allegations received about Public Education

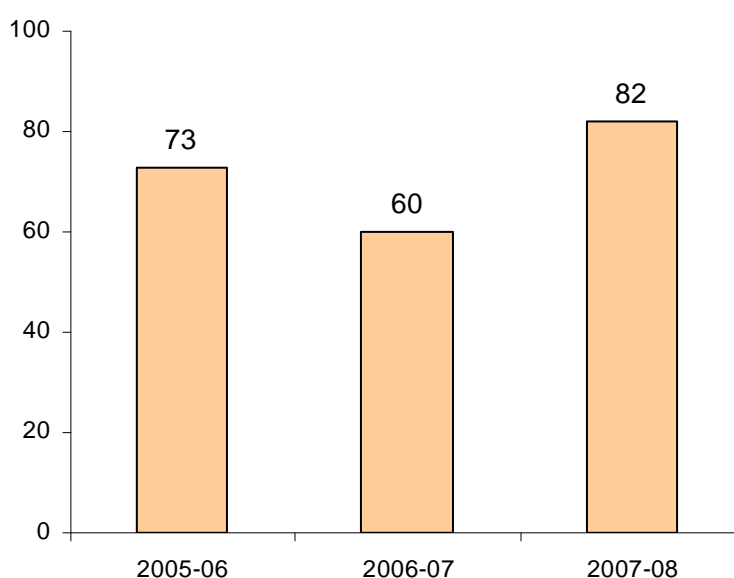


Table 11 shows details of allegations received during the year compared with the previous two years, together with the institutions complained about.

	2005-06 received	2006-07 received	2007-08 received
Department of Education and Training (administration and individual schools)	34	32	43
Curriculum Council	3	0	1
Central TAFE	4	4	6
Central West College of TAFE	1	0	0

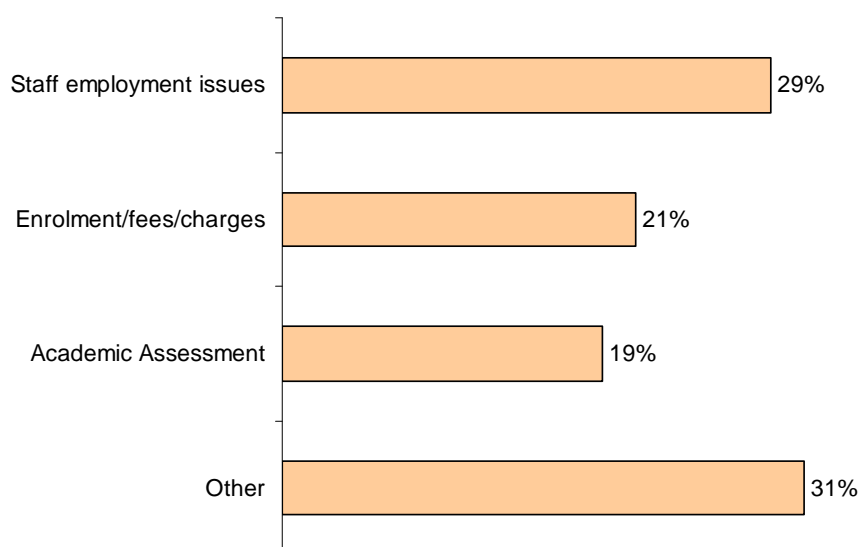
Table 11 - Allegations received about public education

	2005-06 received	2006-07 received	2007-08 received
Challenger TAFE	0	2	0
Kimberley TAFE	0	0	1
Pilbara TAFE	1	0	0
Swan TAFE	0	0	1
West Coast TAFE	0	0	0
Total TAFE	6	6	8
Curtin University	5	11	7
Edith Cowan University	8	3	13
Murdoch University	7	4	9
University of Western Australia	10	4	1
Total Public Universities	30	22	30
TOTAL PUBLIC EDUCATION	73	60	82

Nature of Allegations

Allegations about public education relate to the three main areas of staff employment, enrolment fees and charges, and academic assessment. The 'other' allegation category includes allegations such as the quality of teaching and organisation of courses and student discipline.

Nature of Public Education allegations in 2007-08



Allegations Finalised

Tables 12 (a) and (b) show the outcome of complaints finalised during 2007-08. As with last year, a higher number of allegations (95) were finalised in 2007-08 than were received (82).

Table 12 (a) – Allegations finalised at initial stage		
	Number of allegations	% (approx)
Out of jurisdiction	5	9%
Alternative remedy or right of review	18	32%
Informal resolution of complaint	0	0%
Withdrawn by complainant	2	4%
Referred back to agency	7	12%
Further investigation not warranted *	24	43%
Total allegations finalised at initial stage	56	100%

* Includes cases where enquiries were made and assistance provided without further investigation.

Table 12 (b) – Allegations finalised by completed investigation		
	Number of allegations	% (approx)
Sustained wholly or partly	15	39%
Withdrawn by complainant	11	28%
Could not be determined	0	0%
Not sustained	13	33%
Total allegations finalised by completed investigation	39	100%

Remedial Action to Benefit Complainant and/or to Improve Public Administration

Remedial action provided to complainants as a result of recommendations made by the Ombudsman or voluntary action by the agencies are shown in Table 13. It is possible for a complainant to receive more than one form of assistance with respect to the one allegation. In 2007-08, there were 39 remedial actions that benefited the complainant compared to 23 in 2006-07.

Table 13 – Remedial action of direct benefit to complainant	
	Number of actions
Explanation provided *	32
Action/decision expedited or reversal or variation of decision	2
Monetary charge reduced, withdrawn or refunded or act of grace payment	2
Other assistance	3
Direct benefit for complainant	39

* Includes explanations provided by the Ombudsman.

Examples of remedial action provided to complainants and action taken to improve public administration as a result of recommendations made by the Ombudsman or voluntary action by the education authority included:

- A university agreed to have a student's appeal against academic assessment reheard by a committee consisting of new members and to ensure that procedural fairness principles were applied;
- In view of the particular circumstances of the case, a university agreed to reimburse a student for any demonstrated loss of earnings and other reasonable costs associated with undertaking a supplementary practicum;
- A university agreed to the conditional re-enrolment of a student who had been terminated from a course;
- The Curriculum Council reissued certificates to a student in the name he had changed to under the Change of Name Regulations;
- A university revised its instructions to staff about student practicums, reinforcing the need for them to record reasons for assessment decisions including the criteria used. In addition it agreed to provide training about procedural fairness principles to persons involved with academic assessment appeal committees;
- A university revised its appeal against academic assessment procedures to require that students be given detailed reasons for decisions; and
- A university agreed to review its system for student appeals against academic processes to allow students to make further submissions to the appeal committee where special circumstances apply, for instance, where new information is provided to the Committee during the appeal process that the student has not had the opportunity to respond to.

Case Study

Waiving the cost of a computer

A teacher complained that a public authority was seeking the full residual value for the late return of a notebook computer under the Notebooks for Teachers Program. The teacher claimed permission had been sought and received to retain the notebook for an additional month during the teacher's transfer to a new location. The public authority disputed the teacher's claim.

The public authority maintained that, in signing the 'Notebook Registration Form', the teacher entered into a binding contract and effectively agreed to the terms and conditions of the Program. Teachers were contractually obligated to return the notebooks at the third anniversary of their delivery. Program participants had been sent detailed written advice and instructions, in advance, regarding the need to return notebooks and the potential consequences should they fail to do so. However, the view of the Ombudsman was that the information did not adequately convey the requirement for the notebooks to be returned no later than the anniversary date, or the consequences of having to pay the residual value and penalties should it be returned after the final deadline.

The agency acknowledged that there were a number of shortcomings in the initial agreement. However, in May 2007, the original agreements ended and all participants were then covered under a new, more comprehensive set of terms and conditions. Information provided on the website was amended to outline the financial impacts for missed collections.

The Ombudsman's office considered there was no reason to believe that the teacher was acting in other than good faith in their claims and, given the disparity of accounts and the absence of evidence to the contrary, was not persuaded that the teacher's claim should be completely disregarded. It did not seem reasonable for the teacher to have to bear the full cost of the pay-out of the residual value of the notebook computer as well as the financier's charges. The Ombudsman's office suggested the public authority consider waiving half the amount charged for the late return of the notebook computer and the public authority accepted this suggestion.

This case study highlights the requirement for clear terms and conditions and the communication of those to all relevant parties. The case study also shows how the Ombudsman's office's recommendations can help achieve a reasonable outcome for the complainant and the public authority.

Overseas/International Students

Introduction

A new [National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007](#) came into effect on 1 July 2007. The new Code gives international students the right of appeal to an external and independent body, such as the Ombudsman, if their internal appeals were unsuccessful at school or university level.

Around 19,000 overseas students are currently enrolled at institutions that provide government education services to overseas students. An international student visa holder can no longer be reported to immigration authorities by their educational institution until the student has been given the opportunity to access the external appeals process.

This new jurisdiction has seen the Ombudsman working closely with public universities in Perth to ensure a consistent interpretation of the Code. During the year, the Ombudsman's office dealt with nine appeals from international university students. As a result of suggestions made, the universities have improved their internal appeals processes and complaint handling procedures.

These improvements include:

- changing wording on standard letters to make them easier for international students to understand;
- ensuring international students know of their right to a support person during an appeal;
- documenting fully the reasons for deciding appeals; and
- making certain that the reasons for decisions reflect university policies.

Processes have been refined within the Ombudsman's office to ensure international student complaints are handled efficiently due to the implications for the student's visa status.

Case Study

Improved process to give reasons for decisions

An overseas student complained that a university had unreasonably dismissed their appeal against termination of their enrolment in a Bachelor degree. This had significant implications for retaining their student visa. The student also complained that the university did not notify them that their application for a deferred examination due to illness had been denied, and that they had not been given the opportunity to appeal that decision before termination was considered.

The investigation confirmed that no written notification had been sent to the student advising them that their application for a deferred examination had been denied, giving reasons for that decision or outlining the procedure should they wish to appeal that decision. However, despite this administrative shortcoming, the Ombudsman's office did not believe that this matter was crucial to the final outcome. This was because the policy in place at the time required students to have submitted all the required assignments for the course up to the time sickness had occurred. The complainant had not met this requirement.

The Ombudsman's office was satisfied that:

- the university had made its decision on the appeal against termination based on the student's academic record and its assessment of the reasons and circumstances set out in the appeal; and
- the decision was in keeping with its policies on academic status and grading of results.

Although the conclusions were of no direct assistance to the complainant, this complaint raised the general issue of providing students with "reasons for decisions". After raising these concerns with the university, it agreed that it needed to address the issue of providing students with reasons for decisions and advised that its policy and procedures were being re-written to achieve this. This case study is an example of an issue dealt with under the new National Code of Practice.

Requests for Review

The Ombudsman's office is committed to providing complainants with a service that reflects best practice administration. Staff always give reasons for a decision and handle requests for review of a decision in a fair, timely and professional manner. This includes decisions not to investigate a complaint or to discontinue an investigation, as well as conclusions reached after an investigation.

If a complainant requests a review, the office treats this as opportunity to identify whether there are any weaknesses in the complaint systems. If problems are found with the investigative and decision-making process or with the way decisions have been communicated, steps are taken to correct them and to improve service delivery. A review helps the office satisfy itself that staff have acted fairly and reasonably in dealing with the complaint.

As reviewing a decision can require substantial resources, a decision is only reviewed once. Unless there are special circumstances, requests for review will only be considered up to 12 months after the date of the initial decision.

Reviews are not conducted by the staff member who handled the original complaint. The reviewer will be more senior or a peer and will have had no previous involvement with the case.

The reviewer generally considers all documents in the case and may make further enquiries. In some cases, following a review, the original decision may be changed or the case re-opened and some further action taken.

Twelve complaint reviews were conducted this year, or one per cent of the total number of complaints received.

Improved Public Administration

There are a number of ways in which the Ombudsman achieves outcomes that result in improvements to public administration. These are:

- investigation of complaints made to the Ombudsman;
- own motion investigations – these usually occur where the Ombudsman initiates an investigation into a systemic issue identified as a result of a number of complaints received about a particular issue or where a concern about a particular issue is identified even though complaints may have not been received;
- inspections of prisons conducted in conjunction with the Inspector of Custodial Services; and
- other mechanisms such as through assistance, education and training undertaken by the Ombudsman about good decision-making and practices.

Investigation of Complaints

Investigations undertaken by the office are a key mechanism through which administrative improvements are achieved. In a number of cases, the Ombudsman makes recommendations or suggestions to an agency for improvements to processes or procedures as a result of shortcomings identified during the office's enquiries. Some improvements occur because an agency voluntarily initiates a review of its processes and procedures where, as a result of the Ombudsman's enquiries, it realises there were gaps in its service delivery that should be addressed. There were 34 improvements to the practices and procedures of public authorities this year as a result of recommendations or suggestions made by the Ombudsman. In addition, there were 22 instances where public authorities voluntarily initiated changes to practices or procedures, or initiated training for staff, as a result of complaints being made to the Ombudsman.

Case Study

Improved notification to textbook writers about changes to subjects

A textbook writer and publisher complained about the way the authority responsible for setting the Tertiary Entrance Examination (TEE) Curriculum introduced changes to the syllabus of a TEE subject. The writer claimed that the authority's approach made it difficult to understand the nature of the changes, which resulted in a waste of many hours amending his textbooks in ways that were unnecessary.

The Ombudsman's investigation revealed that the process used to amend subject syllabuses included consultation with a committee made up of representatives from the secondary and post secondary sector as well as industry groups with expertise in the field. For this reason the Ombudsman did not consider that it was necessary to consult individually with textbook writers.

However, the Ombudsman's office was concerned that there was potential for committee members who may also be textbook writers to obtain information that gave them an unfair commercial advantage over other textbook writers. For this reason, it was suggested that the authority review its conflict of interest policy.

The Ombudsman's investigation also revealed that conflicting advice had been provided to the textbook writer on a number of occasions and that there were inadequacies in the process for ensuring that subject curriculum information was error free and unambiguous at the beginning of the school year. The Ombudsman suggested a review of the authority's processes to help reduce the possibility of such problems recurring, including establishing ways of providing textbook writers with timely and accurate advice about changes to syllabuses. These suggestions were accepted.

This case study is an example of how the making of a complaint to the Ombudsman can result in changes to practices and procedures following a suggestion made by the Ombudsman's office.

Follow Up of Ombudsman Recommendations

In 2007-08, the Ombudsman's office reviewed whether recommendations and suggestions made by the Ombudsman over a six year period had been implemented by public authorities. The outcome was that Ombudsman recommendations and suggestions had been implemented in 97 per cent of cases. The review showed that action taken by public authorities to assist complainants included expediting action, reducing or refunding fees and charges, explaining reasons for decisions, making an apology or providing compensation payments.

Actions taken to improve future administrative practices included changes to organisational policies and procedures, staff training and improved record keeping.

Own Motion Investigations

The office finalised one own motion investigation during the year and followed up on the implementation of recommendations on another. The details are outlined below.

Grievance Process for Indigenous Prisoners

An investigation into the Department of Corrective Services' prisoner complaints system (grievance process) for Indigenous prisoners was completed in September 2007. The investigation focused on Broome Prison. This is an adult prison with a high proportion of Indigenous people. At the time of the investigation, 95 per cent of prisoners were Indigenous people.

The investigation involved an assessment of the grievance process against the criteria relating to accessibility, fairness, efficiency, and accountability.

A number of observations were made about the administration of the grievance process during the investigation, which were passed on to the Department to assist it in implementing improvements to its system and in further refining its complaints process.

In particular, it was observed that there was a low participation rate amongst Indigenous prisoners using the grievance process. Information about the literacy and numeracy skills of prisoners at Broome indicated that a number of prisoners would have difficulty accessing the written based system. A number of suggestions to overcome this accessibility barrier were made to the Department. It was also suggested that the Department consider renaming the grievance system as the term may not be contextual to the Indigenous culture. For example, Indigenous prisoners believed grievances were related to grieving for deceased relatives. Suggestions were also made about the timeliness and accountability framework for dealing with grievances.

Complaints Management Processes in the Department of Education and Training

In November 2007, the Ombudsman published the [**Progress Report on the Implementation of the Ombudsman's Recommendations by the Department of Education and Training**](#). This followed an own motion investigation in response to a number of complaints about the Department's approach to complaints management. The report of the investigation, published in November 2006, identified a number of systemic issues and five recommendations were made.

The Progress Report noted that the Department had made positive progress towards improving its complaints management processes and has commenced a comprehensive reform of its complaints

handling processes that will involve changes to policies, procedures and practices. The Department has made a commitment to fully implement the recommendations and report back to the Ombudsman by the end of September 2008. The Ombudsman's office will review the Department's progress in implementing changes to its complaints management process during the 2008-09 year.

Assistance, Education and Training

Improvements to public administration can be achieved through assistance, education and training programs. The office provides high level strategic advice to public authorities on their administrative practices.

Assisting Public Authorities to Develop Internal Complaint Handling Systems

During the financial year, Ombudsman staff worked with two public authorities that are in the process of improving their complaint handling systems. These were the Department of Corrective Services and the Department for Child Protection.

The work with the Department of Corrective Services arose following two investigations initiated by the Ombudsman in 2006 and 2007 into the Department's prisoner complaints system (grievance system) and a recommendation in the report [*Inquiry into the Management of Offenders in Custody and in the Community*](#), by the Hon Denis Mahoney AO QC in November 2005. The Ombudsman's office monitored and supported the Department in the development of its new complaints handling system (ACCESS) to improve the accessibility, efficiency, accountability and responsiveness of the system for prisoners, including Indigenous prisoners. The new complaints management system for prisoners has been operational since January 2008.

Given the significant number of enquiries and complaints made to the Ombudsman's office by prisoners, consideration will be given to a further review of complaint handling services in the Department after the new system has been operational for a reasonable period.

The work with the Department for Child Protection arose following a recommendation in the independent review of the former Department for Community Development ([*Review of the Department for Community Development, Prudence Ford, January 2007*](#)). Here, the Ombudsman's office monitored and supported the development of a new Three Tier Complaints Management System by the new department. The Department for Child Protection's new complaints management system has been operational since March 2008.

The Ombudsman joined with the Department of Child Protection and the Corruption and Crime Commission to provide a seminar to the new Executive and senior managers of the department on complaints handling and the new Department for Child Protection complaints management system and the role of the Ombudsman and the Corruption and Crime Commission.

The Ombudsman also participated in the production of a DVD based on this seminar to be used in the training and development of the department's staff across the State.

In each of these initiatives, Ombudsman staff have provided comment on complaints systems development at a broad strategic level, rather than by detailed input into policies and procedures. However, it has also been important to consider the interface between these new Department

systems for internal complaint handling and the Ombudsman's management of complaints and enquiries to the Ombudsman's office about both Departments.

Monitoring and review of the day-to-day interface between the Ombudsman's complaint teams and each Department is ongoing.

New working arrangements have been developed between the Ombudsman's office and the Department of Corrective Services to ensure the effective and timely management of enquiries and complaints made to the Ombudsman. The Ombudsman's office assisted the Department in developing a telephone script to assist prisoners using the prisoner complaints telephone hotline to the Ombudsman if they did not wish to use ACCESS. The office is committed to working cooperatively with the Department and maintaining its relationship with the Department's Complaints Administration Unit in relation to the progress of ACCESS.

A working arrangement was negotiated and agreed between the Director General of the Department for Child Protection and the Ombudsman to ensure the effectiveness and efficiency of responses to enquiries and complaints made to the Ombudsman about the Department.

Prison Officer Training

The Ombudsman's office continued to build on its initiative of training prison officers by providing awareness sessions to all new trainee prison officers as part of their induction training. Staff talked to the trainees about the processes for dealing with prisoner complaints and outlined the sort of grievances that should be capable of being resolved at the local prison level.

Prison Inspections

In 2007-08, Ombudsman staff visited Casuarina Prison and Rangeview Remand Centre in conjunction with inspections by the Office of the Inspector of Custodial Services.

The focus of the Casuarina inspection was the effectiveness of the prisoner grievance process and confidential mail system. Ombudsman staff met with peer support prisoners and with staff who process grievances. The inspection report on these systems included a number of suggestions for improvement, which were accepted.

Rangeview Remand Centre caters for juvenile male and female detainees from all areas of the State. This was the Ombudsman's first inspection of Rangeview, and the focus was on the internal complaints handling procedures, confidential mail system, and the detainees' knowledge of external avenues of complaint, such as the Ombudsman.

In addition to the inspection of Rangeview, the Ombudsman's office was involved throughout the year in inter-agency meetings to discuss the growing juvenile remand population.

The detainees at Rangeview appeared to be generally satisfied with their treatment and they do not appear to use the external complaint mechanisms very often (perhaps because the average length of stay is 17 days).

The report on the Rangeview inspection included a number of suggestions for improvement. The Department of Corrective Services supported all of the suggestions, with the majority implemented

across both juvenile custodial facilities - Rangeview Remand Centre and Banksia Hill Detention Centre - by February 2008. Among other things, the suggestions will result in improved access to the Ombudsman's office for young people in custody. The Ombudsman's office will continue to work collaboratively with the Office of the Inspector of Custodial Services in dealing with prison matters.

Administrative Improvement Team

Following a strategic planning exercise in 2007 and implementation of a new structure in March 2008, a new administrative improvement team was established to enable the office to take a stronger and more strategic approach to improving public administration at the systemic level. A new Assistant Ombudsman joined the office in June 2008 to lead the team that will have responsibility for activities designed to improve decision-making and practices in public authorities under the Ombudsman's jurisdiction. This may include:

- major investigations initiated by the Ombudsman;
- provision of advice to public authorities;
- audits of public authority practices; and
- the development of resource materials whose primary purpose is to improve administration.

The team will also have responsibility for monitoring compliance by the Corruption and Crime Commission and Western Australia Police with telecommunications intercept legislation.

Strategic planning to identify key issues and themes for improving administration across the public sector will be undertaken early in the 2008-09 financial year. A research paper outlining the approaches used by Ombudsmen in other States in Australia and the Commonwealth Ombudsman has been produced to assist this strategic planning exercise.

Resource Material

The Ombudsman's office publishes a range of brochures, guides and fact sheets to assist public authorities improve their administrative practices and procedures. These cover procedural fairness, good record keeping, guidelines for conducting administrative investigations and providing redress. Publications can be downloaded from the office's website at www.ombudsman.wa.gov.au or requests for hard copy publications can be made to the office. A full list of current publications is listed in [Appendix 2](#).

Other Functions of the Ombudsman

Public Interest Disclosures

The [Public Interest Disclosure Act 2003](#) identifies the Ombudsman as one of the authorities to whom an appropriate disclosure of 'public interest information' may be made. Disclosures are handled by the office's nominated Public Interest Disclosure officer and each matter is assessed to determine whether it is an appropriate disclosure that requires investigation, having regard to relevant guidelines published by the Office of the Public Sector Standards Commissioner and the provisions of the *Public Interest Disclosure Act 2003*.

The *Public Interest Disclosure Act 2003* does not grant any additional or investigative powers to an authority receiving a disclosure and investigations are conducted using the powers available under the [Parliamentary Commissioner Act 1971](#). However, access to the files relating to PID investigations within the office is restricted because the *Public Interest Disclosure Act 2003* imposes stricter confidentiality provisions and provides specific penalties for the release of information that might identify the discloser or any persons who may be the subject of a disclosure.

During the year, the Ombudsman's office completed the investigation of one disclosure carried over from the previous year and received one other. As required under the *Public Interest Disclosure Act 2003* the office reported the number of disclosures received and the outcome of any investigation to the Office of the Public Sector Standards Commissioner. Outcomes resulting in changes to agency practices and procedures are also included in the office's annual report statistics without identifying that they were the result of a particular public interest disclosure.

Audits of Telecommunication Intercepts

The [Telecommunications \(Interception\) Western Australia Act 1996](#), the *Telecommunications (Interception) Western Australia Regulations 1996*, the *Commonwealth Telecommunications (Interception) Act 1979* and the [Corruption and Crime Commission Act 2003](#) permit certain designated 'eligible authorities' to carry out strictly regulated telecommunication interceptions. In this State, the Western Australia Police and the Corruption and Crime Commission are the eligible authorities.

Under the Regulations, the Ombudsman is appointed as the Principal Inspector to audit the interception activities of the Western Australia Police and the Corruption and Crime Commission to ensure they are meeting their legislative requirements and carrying out the interceptions lawfully. The Ombudsman must inspect the telecommunications interception records of the Western Australia Police and the Corruption and Crime Commission at least twice a year and then report on the outcome to the relevant ministers within three months of the end of the financial year. The report on the Western Australia Police is sent to the Commissioner of Police and the State and Federal Ministers for Police and the report on the Corruption and Crime Commission is provided to the State Attorney General, the Federal Attorney General and the Corruption and Crime Commissioner.

Ombudsman staff undertook 10 inspections for warrants issued during 2007-08. 301 warrants were examined in 2007-08.

State Records Commission

The Ombudsman is a member of the State Records Commission, which was established in July 2001 under the [State Records Act 2000](#). The Commission monitors the operation of, and compliance with, the legislation, monitors record keeping compliance by government bodies and makes enquiries into alleged breaches of the legislation. The Commission reports direct to Parliament and submits a separate annual report to Parliament.

The Ombudsman participated in five meetings of the Commission during the financial year.

Terrorism

The Ombudsman can receive complaints from a person detained under the [Terrorism \(Preventative Detention\) Act 2006](#), about administrative matters connected with his or her detention. There were no complaints received in this category during the year.

Indian Ocean Territories

Under the service delivery arrangement between the State Ombudsman and the Commonwealth Government, the Ombudsman handles complaints from residents of the Indian Ocean Territories (Christmas and Cocos (Keeling) Islands) about public authorities in the Ombudsman's jurisdiction that operate in the Territories at the Commonwealth's request. The Ombudsman handled one complaint during 2007-08.

Energy Ombudsman Function

The functions of the Energy Ombudsman are in addition to, and separate from, the Western Australian Ombudsman's role. The [Parliamentary Commissioner Act 1971](#) was amended in 2003 and 2004 to enable the Western Australian Ombudsman to serve in this role and allow staff of the office to provide assistance in dealing with complaints about gas and electricity providers. The governing body of the Energy Ombudsman is Energy Industry Ombudsman (Western Australia) Limited, which provides funds for the delivery of Energy Ombudsman services under an agreement with the Ombudsman.

During the reporting period, 140 gas-related complaints were received and 95 percent were resolved within 10 business days. A total of 953 electricity complaints were received, 96 per cent of which were also resolved within 10 business days.

Ombudsman staff provide support to the Energy Ombudsman team by assisting with complex cases and case reviews. In 2007-08, staff also contributed to strategic Energy Ombudsman projects including:

- a review of the Energy Ombudsman budget for 2008-09; and
- initial research for the statutory review of the Energy Ombudsman schemes, which is due to be completed in the second half of 2008.

Further details are available in the Energy Ombudsman Annual Report 2007-08.

Additional Functions

Transfer of the Child Death Review Function to the Ombudsman

The independent review of the former Department for Community Development, undertaken by Prudence Ford in 2007 ([Review of the Department for Community Development, Prudence Ford, January 2007](#)), made three recommendations relating to the Ombudsman:

- that the Department develop a three tier complaints process, in conjunction with the Ombudsman and the Corruption and Crime Commission (Recommendation 30);
- that the child death review function be transferred from the ministerial Child Death Review Committee to the Ombudsman (Recommendation 31); and
- that a small specialist investigative unit be established within the Ombudsman's office to investigate complaints and examine cases of child deaths involving a number of agencies (Recommendation 32).

The recommendations were endorsed by the State Government and funding has been approved for 2008-09.

Legislative change is required to enable the transfer of the child death review function. Amendments to the [Parliamentary Commissioner Act 1971](#) and the [Children and Community Services Act 2004](#) are being drafted that will need to be considered and passed by the Western Australian Parliament before the transfer can take place. Once the transfer occurs, the Ombudsman will be responsible for reviewing the deaths of children known to the Department for Child Protection, where they meet a range of review criteria.

Transfer of the Water Service Complaints Function to the Ombudsman

As part of the State Government's water reform program, it is proposed that the water service customer complaints function currently undertaken by the Department of Water be transferred to the Ombudsman's office. It is expected that the Energy Ombudsman role will be expanded to cover this function.

A senior officer working group made up of representatives from the Department of Water and the Ombudsman's office was established in September 2007 to progress the transfer of this function. Legislative change will be needed to enable the transfer to occur. Ombudsman staff have provided high level advice through the working group to assist preparation of the necessary legislation.

Communication and Access

In 2007-08, the office continued exploring ways to raise awareness of the role of the Ombudsman's office in the Western Australian community. With the appointment of a dedicated Communications Manager, a review was conducted of existing public relations and communications materials and activities.

Development of a draft communications strategy commenced with a view to continuing to raise the profile of the Ombudsman amongst stakeholder groups and promote accessibility to the Ombudsman.

Initial planning has identified some of the key messages the office is seeking to promote, the key stakeholders involved and includes a range of activities from rebranding to media initiatives, conferences and regular meetings with key stakeholders.

The communications strategy will be finalised in the 2008-09 financial year in line with the outcomes of the office's strategic planning initiatives. The strategy will be reviewed regularly for continuous improvement and relevance to the current office initiatives.

Initiatives to enhance communications and access undertaken during 2007-08 are detailed below.

Office Branding

During the year the office undertook a rebranding exercise. A new Style Guide has been developed that defines the format and design of all Ombudsman Western Australia documentation including office stationery, business cards and publications. The new style guide will be implemented across the office in 2008-09. The new style will also flow through to the office's website and internal intranet site designs.

Corporate Newsletter

A quarterly corporate newsletter, [Western Australian Ombudsman](#), commenced this year with the first edition issued in March 2008. The newsletter included articles on public sector responses to Ombudsman recommendations; a message from the Ombudsman; office achievements; case studies; helpful information about complaints management processes and resources; the work of enquiry officers, which is to be part of a series of team member work profiles; and an Ombudsman staff member personal profile.

The newsletter is published on the Ombudsman's website and an introductory email with a link to the newsletter is sent directly to all public authorities.

Ombudsman Speeches

An important way for the office to communicate awareness of its role is through presentations at conferences. This year, the Ombudsman gave speeches to:

- the Australian and New Zealand Ombudsman Association;
- the Australian Institute of Administrative Law;

- the Public Sector Management program graduates;
- the Legal Counsel Conference 2008;
- the Ethical Leadership and Governance in the Public Sector Conference; and
- the Integrity Coordinating Group Forum.

Copies of the speeches listed above are available on the [Ombudsman Western Australia website](#).

'Ask the Ombudsman' Radio Appearances on 6PR

A new initiative this year was the introduction of regular 'Ask the Ombudsman' slots on the 6PR Nightline program. It is anticipated the Ombudsman will appear on the program approximately four to six times a year and listeners who have a query for the Ombudsman's office will email or call in and have an opportunity to discuss their complaints with the Ombudsman on air.

Website Development

A significant communications project this year was the redesign of the Ombudsman's website. Special consideration was given to international web standards and best practice recommendations and the redesigned website will be compliant with the W3C international web standards.

Due to the extensive work required, the project will continue into 2008-09 with review and revision of all content, development of an improved navigational tool and a design that incorporates the office's updated branding.

The new website will help those who want to make a complaint to access the relevant information more easily. The redesign will also group resources and publications into one location and includes a new page for media. Further additions to the website will include frequently asked questions and case studies.

The redesigned website will be online by the end of 2008.

Publications

The Ombudsman's office publishes a range of brochures, guides and fact sheets to assist members of the public and public authorities in understanding the services the office delivers. Publications can be downloaded from the office's website at www.ombudsman.wa.gov.au or requests for hard copy publications can be made to the office. A full list of current publications is listed in [Appendix 2](#).

During 2007-08, the Ombudsman's office revised and reissued the 'Ombudsman Western Australia' brochure, which details its services and complaints management process. The brochure was also redesigned in line with the new office branding.

Information DVD for Migrants

The Ombudsman's office participated in the production of an informative DVD to be provided to all new arrivals into Australia. The 30 minute DVD is an initiative of the Federal Attorney General and the Public Purposes Trust and will be translated into 12 languages. It provides information about various aspects of Australian law, ranging from interaction with government agencies to domestic violence. The DVD provided the Ombudsman's office with an excellent opportunity to increase migrant awareness of the Ombudsman's role and services.

WACOSS Conference

In May 2008, the Ombudsman's office sponsored a booth at the WACOSS Conference 2008 in order to raise the profile of the Western Australian Ombudsman and the Energy Ombudsman with various stakeholders. Brochures and fact sheets detailing the office's services and complaints management processes were distributed at the event.

Accessibility for People from Diverse Backgrounds

The Ombudsman's office is committed to ensuring that it is accessible to people from diverse backgrounds. The office strives to publish all documents in plain English. Publications are available in alternative formats on request and this information is provided in all new publications. Information published on the office website can be viewed and printed in alternative formats and TTY phone access is available for people with a hearing impairment.

Where necessary, the complaint process is modified to meet the needs of the particular person. This includes meeting with people at a local venue where it is difficult for them to attend the office, and modifying communication strategies, for example by using a translator or interpreter service where required.

Ensuring the office is accessible to Indigenous people is a key priority for the office. The office will continue to take a proactive approach to identify strategies to raise its awareness amongst Indigenous people and regional Western Australians.

Community Awareness

During the year, the Ombudsman's office continued to respond to requests from agencies, service clubs, associations and professional bodies to present papers, speak to groups and participate in seminars and conferences.

In 2007-08, representatives from the Ombudsman's office met with people from a variety of community groups as follows:

- In collaboration with the Commonwealth Ombudsman, gave a presentation to community members at Boddington Old School;
- Presented 'An Introduction to the Ombudsman' to various community groups including a Red Cross Carer Support Group in Warwick, the Country High Schools Hostels Authority, Murdoch University Parliamentary Internship students, and Probus Clubs across the Perth metropolitan area;

- Met with delegates from the Ministry of Public Security, People's Republic of China to discuss handling of prisoner complaints; and
- Met with a professor from the University of Liverpool as part of a research project on Ombudsmen and administrative justice models.

Strategic and Corporate Initiatives

Strategic Partnerships

Integrity Coordinating Group

The Integrity Coordinating Group is a cross-agency initiative established in 2005 by the Ombudsman, Commissioner for Public Sector Standards, Corruption and Crime Commissioner and Auditor General.

The Integrity Coordinating Group fosters greater policy coherence and operational coordination amongst these core integrity bodies, with the aim of strengthening integrity across the sector. Its Terms of Reference include:

- fostering cooperation between public sector integrity bodies;
- encouraging coordinated research, evaluation and monitoring of the implementation of integrity and accountability;
- fostering operational cooperation and consistency in communication, education and support in public sector organisations;
- providing ongoing advice to government and the public through existing mechanisms on institutional and law reforms needed to maintain and develop integrity in the Western Australian public sector; and
- sponsoring comparative research, evaluation and policy discussion regarding integrity mechanisms in Western Australia and other jurisdictions, nationally and internationally.

The following initiatives of the Integrity Coordinating Group were undertaken to promote integrity in Western Australian public authorities:

- In August 2007, the Integrity Coordinating Group hosted an Integrity Forum on the topic of *Integrity in the Western Australian Public Sector – Current Challenges and Future Directions*. Each of the Integrity Coordinating Group members provided their observations on integrity issues for the public sector and gave an overview of the current priorities and directions for their offices. The Forum was a success, with approximately 160 attendees from 85 different public authorities. Approximately one quarter of those attending were Chief Executive Officers;
- The Integrity Coordinating Group travelled to Bunbury in October 2007 to raise awareness of integrity in Government and the work of the group. This regional visit was hosted by the South West Development Commission;
- The majority of Integrity Coordinating Group member agencies supported Griffith University's project, *Whistling While They Work: Enhancing the Theory and Practice of Internal Witness*

Management in the Australian Public Sector. Along with other government agencies and oversight bodies with a shared interest in reviewing Australian laws, the participating Integrity Coordinating Group member agencies joined this national research project to review Australian public disclosure law and practice;

- The publication *Taking Action on Integrity Issues* was revised during the year to reflect more accurately the different roles and responsibilities of the individual members of the Integrity Coordinating Group, to enable public sector staff to determine more easily where to go for advice and/or assistance with integrity issues; and
- The Ombudsman's office is taking the lead in organising an Integrity Coordinating Group Forum on integrity in Government, planned for October 2008. It is proposed that actors will role-play scenarios relating to integrity issues for the audience, with senior staff from each of the Integrity Coordinating Group member agencies forming a discussion panel to talk through the issues. The aim of the Forum is to provide senior public sector employees with examples of integrity issues and the processes Integrity Coordinating Group member agencies go through to investigate and resolve such issues.

Collaboration with Other Ombudsmen

Indonesian Program

In 2005, the Western Australian Ombudsman entered into a joint program with the Commonwealth and New South Wales Ombudsmen, and the National Ombudsman Commission of Indonesia, to strengthen Ombudsman services in Indonesia. The program, which is known as the Indonesian-Australian Ombudsman Linkages and Strengthening Program, is funded by AusAID under the Government Partnerships Fund and was initiated under the five-year Australia Indonesia Partnership for Reconstruction and Redevelopment program established after the 2004 tsunami.

The goal of the program is to provide greater access, across a larger portion of Indonesia, to more effective and sustainable Ombudsman and other complaint management services. Program activities help to strengthen the links between Ombudsman offices in Indonesia and Australia and strengthen the complaint handling and investigation capacity of staff.

The Ombudsman's office supports the program through staff placements in Indonesia and Australia. There were two placement activities during 2007-08. The first involved an Ombudsman staff member from Western Australia visiting Jakarta, Kupang and Solo in Indonesia. The officer met with National Ombudsman Commission of Indonesia staff and staff from other complaint bodies and made a number of presentations to stakeholders and the Kupang media about the Ombudsman Linkages and Strengthening Program. The second placement involved two officers from the National Ombudsman Commission of Indonesia visiting Perth, where they worked closely with Ombudsman staff over a two-week period. During the placement, the National Ombudsman Commission of Indonesia staff met with the former Consul of the Republic of Indonesia, Dr Aloysius Lele Madja, and his staff.

Placement activities have been very successful. In part, this is because Ombudsman practitioners in the two countries work closely together, sharing and exchanging information to refine their complaint handling and investigative skills. The Ombudsman has established strong links with the

National Ombudsman Commission of Indonesia through the placement activities and the office will continue to support the program in the 2008-09 financial year.

Dealing with Complainants whose Behaviour is Challenging

Since 2006, the Western Australian Ombudsman's office has been part of a national research project led by the New South Wales Ombudsman to develop better strategies for managing complainants whose behaviour is challenging. The aim is to develop a practice manual for staff to assist them to deal with such people. In November 2007, staff from the New South Wales Ombudsman visited Perth to conduct follow-up training with Western Australian Ombudsman staff on dealing with unreasonable complainants.

The project concluded in April 2008 and the New South Wales Ombudsman is reviewing feedback from stakeholders around the country as to the manual's effectiveness and usefulness.

The Western Australian Ombudsman's office has begun a three-month trial of the manual with several Western Australian public authorities. These public authorities have been invited to provide feedback on the manual as a tool to assist them to deal with customers who may be challenging. If feedback indicates it is useful, consideration will be given to releasing the manual to all Western Australian public authorities.

Organisational Development and Improvement

Strategic Planning

Four key strategic priorities were identified following a staff strategic planning day in September 2007 and consultation with key stakeholders. These were:

- continue to build on the improvements in timeliness and efficiency of complaint resolution that have been achieved over the past few years;
- strengthen the focus on administrative improvement;
- plan for new and enhanced functionality; and
- enhance strategic and corporate services to maximise opportunities and minimise risk.

A number of outcomes have been achieved in each area:

- An improved structure that included the establishment of new Administrative Improvement and Strategic and Corporate Services teams;
- Initiatives to further improve timeliness and to streamline the office's complaint-handling and investigations; and
- In the area of new and enhanced functionality, significant progress has been made to transfer the child death review jurisdiction to the Ombudsman's office.

Improved Structure and Accommodation

Changes were made to the structure in November 2007 to support achievement of key strategic priorities for the office and to assist in planning for new functions. Staff input was a crucial part of

the change process and their feedback assisted management to develop a final structure that was implemented in March 2008.

The new structure builds on the strengths in complaint investigation and resolution of the former structure and also enables the office to achieve a stronger focus on improving public administration and strategic services.

Four key business areas were established in the new organisational structure:

- the Executive Team;
- the Access and Resolution Team and the Investigation and Resolution Team;
- the Administrative Improvement Team;
- the Strategic and Corporate Services Team.

The office accommodation was also remodelled to accommodate staff when the child death review function is transferred to the office and to provide space for staff under the new organisational structure. The work, which was completed at the end of March 2008, involved refitting of some of the existing work areas and provision of improved staff amenities.

Implementing a New Case Management System

As part of reviewing and refining the office's operational processes and management systems to improve the efficiency, timeliness and quality of investigations, a new case management system, called RESOLVE, was implemented in April 2008. RESOLVE is presently used by the majority of other State and Commonwealth Ombudsmen and was successfully introduced by the Energy Ombudsman in the first half of 2007 to manage its enquiries and complaints.

The system integrates the former complaints management system with a separate data base that supports the office's enquiry service.

RESOLVE has significant benefits over other previous systems in terms of greater flexibility, ease of use, improved searching facilities and better management of information. The new system will assist the office to further improve on timeliness and effectiveness in complaint and investigation monitoring through improved case management capabilities.

Development of the RESOLVE system took six months, including a period of system testing and staff training before implementation.

Review of the Investigations Operations Manual

The office's *Operations Manual* provides staff with a quick answer to various issues that arise in the course of their work. It outlines the functions of the office, the processes to be followed in fulfilling these functions, and the legal and policy considerations that are relevant to the functions. In addition, it outlines service standards and responsibilities to complainants and public authorities.

In 2007, a major review of the manual occurred to bring it in line with changes in the role of the office since it was written in 1999. The new manual became operational in September 2007 and is

available in electronic form for staff on the intranet. Hyperlinks provide quick access to external resources such as the web pages of other public authorities and providers of legal information, as well as for cross referencing within the manual. The review formed part of the broader strategic goal of streamlining the office's processes to improve the efficiency, timeliness and quality of investigations by providing staff with up to date information to assist them to undertake their work.

Transition to the Office of Shared Services

In the past, the Ombudsman's office has been provided with financial management and human resource management services by the Department of the Premier and Cabinet. In December 2007, the financial management services were transferred to the Office of Shared Services and it is anticipated that human resource management services will be transferred next year. The Business Services Team has been restructured to accommodate the transition and changes to financial management processes as a result of the transition.