

Administrative Improvement

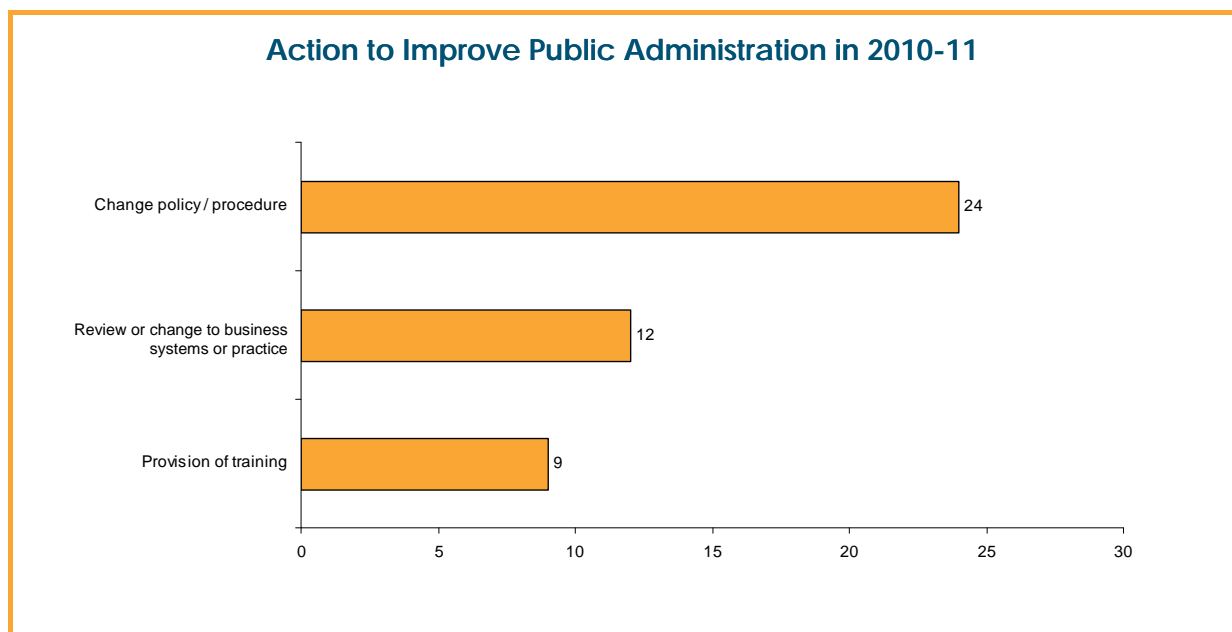
A key function of the Ombudsman's office is to improve the standard of administration in public authorities. The office achieves positive outcomes in this area in a number of ways including:

- Making recommendations and suggestions to improve public administration as a result of the investigations of complaints;
- Undertaking investigations that are based on the patterns, trends and themes that arise from the resolution of individual complaints, referred to as own motion investigations;
- Undertaking inspection and monitoring functions;
- Providing guidance to public authorities on decision making and complaint handling through continuous liaison, publications, presentations and workshops; and
- Working collaboratively with other integrity and accountability agencies to encourage best practice and leadership in public authorities.

Improvements from Complaint Resolution

In addition to outcomes which result in some form of assistance for the complainant, the Ombudsman also achieves outcomes which are aimed at improving a public authority's administrative practices. This reduces the likelihood of the same or similar issues which gave rise to the complaint occurring again in the future. Examples of these improvements are shown below.

During 2010-11 there were 45 improvements made to public authority practices arising from complaints to the Ombudsman as shown in the chart below.



Our Performance – Administrative Improvement

Examples of the administrative improvements achieved through complaint resolution are shown in the table and case studies that follow.

Changes to policy and procedures	<ul style="list-style-type: none">• Introducing new policies and procedures, including for the management of conflicts of interest, discounts and refunds;• Reviewing existing, or introducing new, practice manuals;• Working collaboratively with other agencies; and• Reviewing codes of conduct.
Changes to business systems or practices	<ul style="list-style-type: none">• Making improvements to complaint handling systems;• Reviewing information management systems and improving record keeping;• Reviewing forms and notices; and• Reviewing information communicated through public authority websites and other information sources.
Provision of training	<ul style="list-style-type: none">• Providing training to staff generally in current or improved procedures and systems; and• Providing training and counselling to individual staff members.

Case Study

Public authority agrees to improve processes where there are concerns about a client's decision making capacity

A man came to the Ombudsman's office to make a complaint that a public authority had inappropriately obtained medical information about him and that its process for handling his application for a service was unreasonable.

The investigation of the complaint raised a number of complex considerations about the circumstances under which a public authority can legally obtain medical information about a person's ability to make decisions. These considerations were also relevant to the handling of the man's application because the public authority had not followed its normal process due to uncertainty about the man's decision making capacity.

Ombudsman staff consulted with the public authority which agreed to improve its processes by seeking advice on reasonable options to determine a person's decision making capacity, developing guidelines and establishing contacts for staff where they have concerns about a person's ability to make decisions.



Lost watch brings about review of property transfer process and compensation for complainant

A man was sent to prison and his property, including a watch, was removed. On his release his property was returned, but the watch was missing. The watch had significant monetary and sentimental value to the man. When he asked about it, the prison informed him his watch would be found and sent to him. He later received a letter from the prison asking him to contact the public authority responsible for his transport to the prison, as it claimed the watch was lost during the transfer process. When the man told the prison that the watch was not lost during transfer, the prison advised that as he did not have a property receipt, they could not assist him any further. This is when he complained to the Ombudsman's office.

The Ombudsman's investigation took into account operational instructions, policy directives, standing orders and procedures relating to the handling of prisoners' private property. Staff also reviewed all the correspondence between the prison and the complainant. As a result of the review, the prison acknowledged that it was unclear when the watch was lost and who was responsible. Due to the prison's inadequate record keeping, it could not prove that it was not responsible.

Responsibility was accepted for loss of the watch and financial compensation was provided to the complainant. Property transfer processes were also reviewed to prevent similar incidents occurring again.

Own Motion Investigations

One of the ways that the office endeavors to improve public administration is to undertake investigations that are based on the patterns, trends and themes that arise from our resolution of individual complaints. These investigations are referred to as own motion investigations. Own motion investigations are intended to result in improvements to public administration that are evidence-based, proportionate, practical and consider the costs, as well as the benefits, of proposed improvements. Topics for own motion investigations are selected on the basis of a number of criteria that include:

- The number of complaints received by the Ombudsman;
- The likely public interest in the identified issue of concern;
- The number of people likely to be affected;
- Whether other reviews of the issue have been done recently or are in progress;
- The potential for the Ombudsman's investigation to improve administration in public authorities; and
- Whether investigation of the chosen topic is the best and most efficient use of the office's resources.

Having identified a topic, the Ombudsman's office carries out extensive preliminary research to assist in planning the scope and objectives of the investigation. This may include a pilot study. A public authority selected to be part of an own motion investigation is advised when the project commences and Ombudsman staff consult regularly with staff at all levels to ensure that the facts and understanding of the issues are correct and findings are evidence-based. The public authority is given regular progress reports on findings together with the opportunity to comment on draft conclusions and any recommendations.

Recommendations for administrative improvements are based closely on evidence gathered during investigations and are designed to be a proportionate response to the number and type of administrative issues identified.

Three major own motion investigations were conducted during the year relating to:

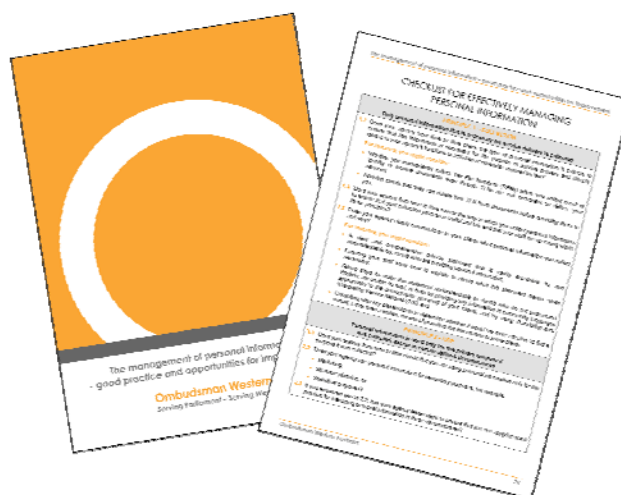
- The management of personal information;
- Deaths of infants; and
- Planning for children in care.

Information on the management of personal information is provided below. The other two projects were identified through child death reviews and further details are included in the [Child Death Review](#) section of this report.

The Management of Personal Information – Good Practice and Opportunities for Improvement

Project Rationale and Objectives

Personal information is information that identifies an individual or *could* identify that individual. State Government agencies require individuals to provide personal information about themselves in order to deliver services, carry out law enforcement, administer regulations and so on. In short, effective and efficient service delivery, including protecting the wellbeing of individuals and the community, may require an agency to collect, disclose and/or share, personal information.



Inappropriate use of personal information is, however, as a matter of principle, wrong. Practically, it can compromise an individual's privacy leading to problems such as fraud and identity theft.

Alleged inaccuracy and inappropriate use of personal information is a source of complaint to the Ombudsman's office. These complaints provided an important base of evidence to suggest that the Ombudsman's office should investigate the management of personal information by State Government agencies.

Our Performance – Administrative Improvement

The objective of the investigation was to:

- Determine whether the State Government agencies participating in the investigation (**the participating agencies**) were effectively managing personal information;
- If required, assist the participating agencies to improve their management of personal information; and
- Identify good practice, lessons learnt and opportunities for improvement that might be useful to other State Government agencies in managing personal information.

To ensure a cost effective investigation with a timely outcome, the office looked at a sample of State Government agencies. The office used a series of agreed good practice principles as shown below to assess the way in which these agencies were managing the personal information they collect and hold. These principles were based on national and state legislative requirements, agency specific legislation and internationally accepted good practice.

Summary of good practice principles for managing personal information	
1. Collection	Only personal information necessary for service delivery is collected.
2. Use	Personal information is used only for the primary purpose it was collected, except in certain defined circumstances.
3. Accuracy	Personal information collected, used and disclosed is accurate and current.
4. Disclosure	Personal information is not disclosed to any people or organisations other than the individual concerned, except in certain defined circumstances.
5. Storage and security	Personal information is protected from misuse, loss and inappropriate access and disclosure.
6. Responsibility for the actions of service providers	Agencies ensure personal information provided to third party service providers is protected from inappropriate use and disclosure.
7. Access and correction	Agencies allow individuals reasonable access to their personal information, except in certain defined circumstances, and take reasonable steps to make requested corrections or deletions.
8. Transparency	The type of personal information that is collected and held, and the principles for its management, are accessible to clients and other interested members of the public.

Our Performance – Administrative Improvement

The final report, [*The Management of Personal Information – Good Practice and Opportunities for Improvement*](#), is available on the [Ombudsman's website](#). The report draws upon the observations made during the investigation and sets these out as good practices together with observations about opportunities for improvement as summarised below.

Good practices	<ul style="list-style-type: none">• An understanding of the importance of managing personal information effectively;• Maintaining the privacy of personal information was seen as part of day to day business;• Quality controls were used to improve the accuracy of personal information entered into agency Information and Communications Technology (ICT) systems; and• There was an ongoing proactive approach to updating personal information to ensure it remained accurate.
Opportunities for improvement	<ul style="list-style-type: none">• Individuals were, at times, not made aware of why their personal information was being collected;• Personal information that was not directly related or necessary to the agency's functions and activities or otherwise required by law was at times collected;• Some ICT systems did not facilitate the effective disposal of personal information when it was no longer necessary for service provision (and it would have otherwise been lawful to dispose of the information);• Measures to prevent inappropriate use and disclosure of personal information by third party service providers were at times not in place; and• At times there was uncertainty about how to apply the good practice principles to the personal information of children.

The report includes a checklist of good practice principles for managing personal information that is designed to assist State Government agencies:

- To consider their own management of personal information against commonly accepted principles; and
- If required, to identify aspects of their own management of personal information that do not meet the principles and therefore represent opportunities for improvement.

The report, incorporating the checklist, has been widely distributed and publicised. These materials are also being integrated into the workshops the office provides and will be available as part of the guidance material the Ombudsman's office provides to agencies through new guidelines to be published in 2011-12.

Continuous Administrative Improvement

The office maintains regular contact with staff from public authorities to inform them of trends and issues identified in individual complaints and on improving their administrative roles through the review of systemic issues and the Ombudsman's own motion investigations. This contact seeks to encourage thinking around the foundations of good administration and to identify opportunities for administrative improvements. Where relevant, these discussions concern internal investigations and complaint processes that authorities have conducted themselves. The information gathered demonstrates to the Ombudsman if these internal investigations have been conducted appropriately and in a manner that is consistent with the standards and practices of the Ombudsman's own investigations.

Ombudsman staff who resolve complaints and respond to enquiries also collect information and track trends in complaints that inform the office of potential broader administrative improvement projects the office might consider undertaking.

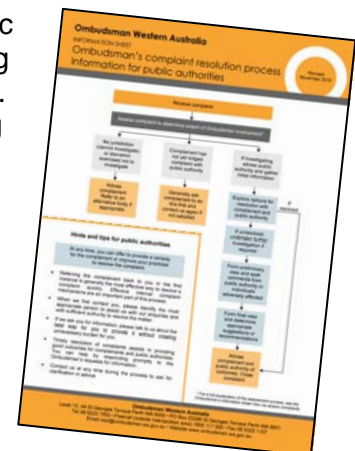
Guidance for Public Authorities

The office provides publications, workshops, assistance and advice to public authorities regarding their administrative and decision making practices and their complaint handling systems. This educative function assists with building the capacity of public authorities and subsequently improving the standard of administration.

Guidelines

The Ombudsman has a range of guidelines available for public authorities in the areas of effective complaint handling, conducting administrative investigations and administrative decision making. These guidelines aim to assist public authorities in strengthening their administrative and decision making practices.

The office released a new guideline titled [*Ombudsman's complaint resolution process: Information for public authorities*](#) during the year. The guideline contains simple hints and tips for public authorities on the Ombudsman's complaint handling process and includes a diagram to show the process in a simplified format. This information has also been integrated into workshops and presentations the office delivers to public authorities.



The office's suite of complaint handling guidelines continues to be a popular resource for public authorities, with the [*Procedural Fairness*](#) guideline being the most downloaded document from the Ombudsman's website. During the year, the suite of complaint handling guidelines and workshop material regarding complaint handling was revised following the release of the Ombudsman's report [*2009-10 Survey of Complaint Handling Practices in the Western Australian State and Local Government Sectors*](#) on 30 June 2010. The updates to the guidelines incorporate the key learnings from the project and report.

Workshops for Public Authorities



Above: Mary White, Assistant Ombudsman Strategic Services, Western Australian Ombudsman's office with staff from the Shire of Denmark during a workshop.

During the year, the office continued to proactively engage with public authorities through presentations and workshops.

Workshops are targeted at people responsible for handling complaints or making decisions as well as customer service staff. The workshops are also relevant for supervisors, managers, senior decision and policy makers as well as integrity and governance officers who are responsible for implementing and maintaining complaint handling systems or making key decisions within a public authority. The workshops are tailored to the organisation or sector by using case studies and practical exercises. Workshops conducted during the year include:

- *Good Administrative Decision Making* to Perth-based Department of Housing staff and community members on the Department's Housing Appeals Committee.
- *The Role of the Ombudsman* to:
 - The Aboriginal Visitors Scheme Conference run by the Department of Corrective Services;
 - The Applied Law and Policy Symposium at Curtin University; and
 - New public sector officers at the Public Sector Commission's Ethics and Integrity Induction Program.
- *Conducting Administrative Investigations* to the Murdoch University Student Discipline Investigation Skills Group.
- *Managing Unreasonable Complainant Conduct* for:
 - Human Resources Practitioners from the Australian Higher Education Industrial Association;
 - Members of the Complaint Managers' Forum coordinated by the University of Western Australia;
 - Advice staff from WorkCover Western Australia; and
 - Local government managers at the Local Government Managers Australia (Western Australia) 'Fit to Lead' Conference.



Attendees have responded positively to the information provided, with public authorities requesting further sessions. The office continues to refine workshop content in light of feedback from the sessions.

Left: Sarah Cowie, Director Research and Projects, Western Australian Ombudsman's office delivering a workshop to staff from WorkCover Western Australia.

Inspection and Monitoring Functions

Telecommunications Interception Inspections

The [Telecommunications \(Interception and Access\) Western Australia Act 1996](#), the [Telecommunications \(Interception and Access\) Western Australia Regulations 1996](#) and the [Telecommunications \(Interception and Access\) Act 1979 \(Commonwealth\)](#) permit designated 'eligible authorities' to carry out telecommunications interceptions. Western Australia Police and the Corruption and Crime Commission are eligible authorities in Western Australia. The Ombudsman is appointed as the Principal Inspector to inspect relevant records of both agencies to ascertain the extent of their compliance with the legislation. The Ombudsman must inspect the telecommunications interception records at least twice during each financial year and must report to the responsible Ministers about the results of those inspections within three months of the end of the financial year.

Monitoring of Criminal Penalty Infringement Notices

The [Criminal Code Amendment \(Infringement Notices\) Act 2011 \(the Act\)](#) amends the [Criminal Code](#) and introduces a new scheme into Western Australia for the issue of Criminal Penalty Infringement Notices by Western Australia Police for certain *Criminal Code* offences. When proclaimed, the Act will require the Ombudsman to keep under scrutiny the operation of relevant parts of the *Criminal Code* and regulations and relevant parts of the [Criminal Investigation \(Identifying People\) Act 2002](#) for a period of 12 months. The scrutiny is to include the impact on Aboriginal and Torres Strait Islander communities. The Ombudsman will have to report to the Minister for Police and the Commissioner of Police as soon as practicable after this time and the Minister is to table the report in both Houses of Parliament as soon as practicable after receiving the report.