

Complaint Resolution

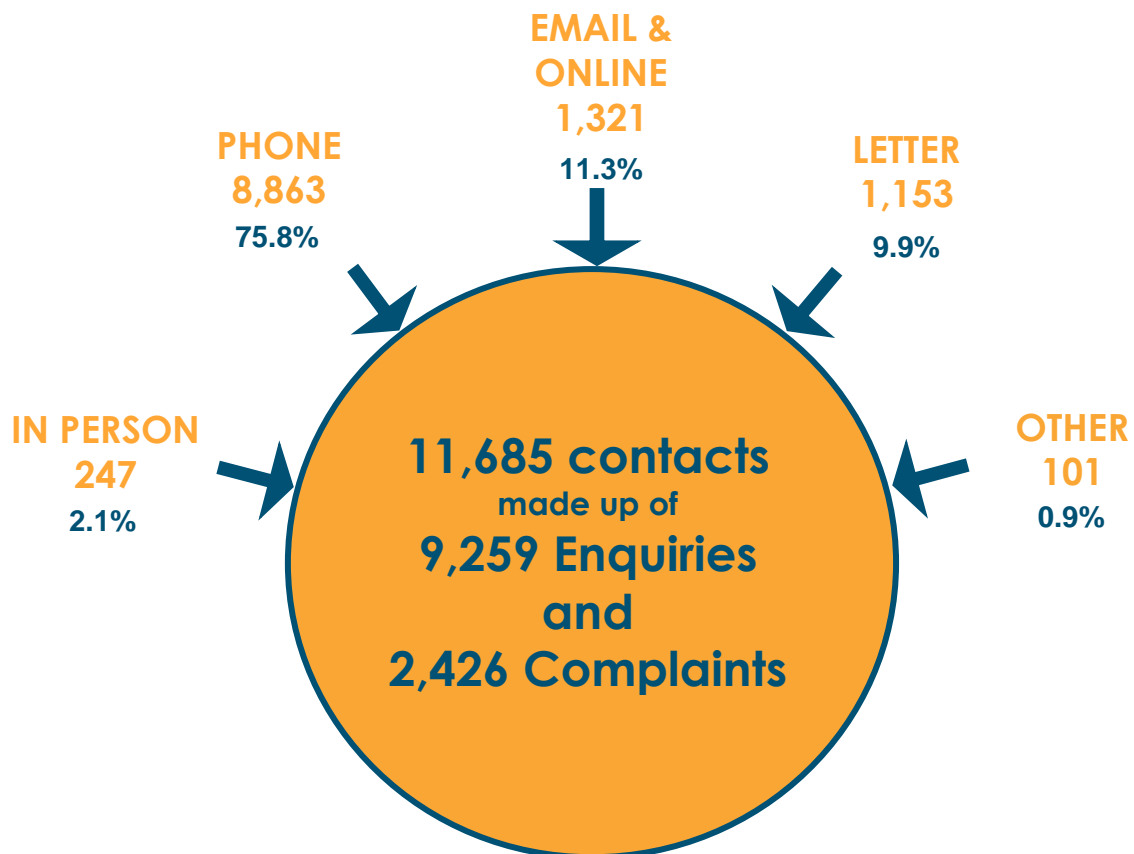
One of the core Ombudsman functions is to resolve complaints received from the public about State Government agencies, statutory authorities and boards, local governments and universities (commonly referred to as public authorities). This section of the report provides information about how the Office assists the public by providing independent and timely complaint resolution services or, where appropriate, referring them to a more appropriate body to handle the issues they have raised.

Contacts

In 2011-12, the Office received 11,685 contacts from members of the public consisting of:

- 9,259 enquiries from people seeking advice about an issue or information on how to make a complaint; and
- 2,426 written complaints from people seeking assistance to resolve their concerns about the decision making and administrative practices of a range of public authorities.

Contacts to the Office in 2011-12



Enquiries Received

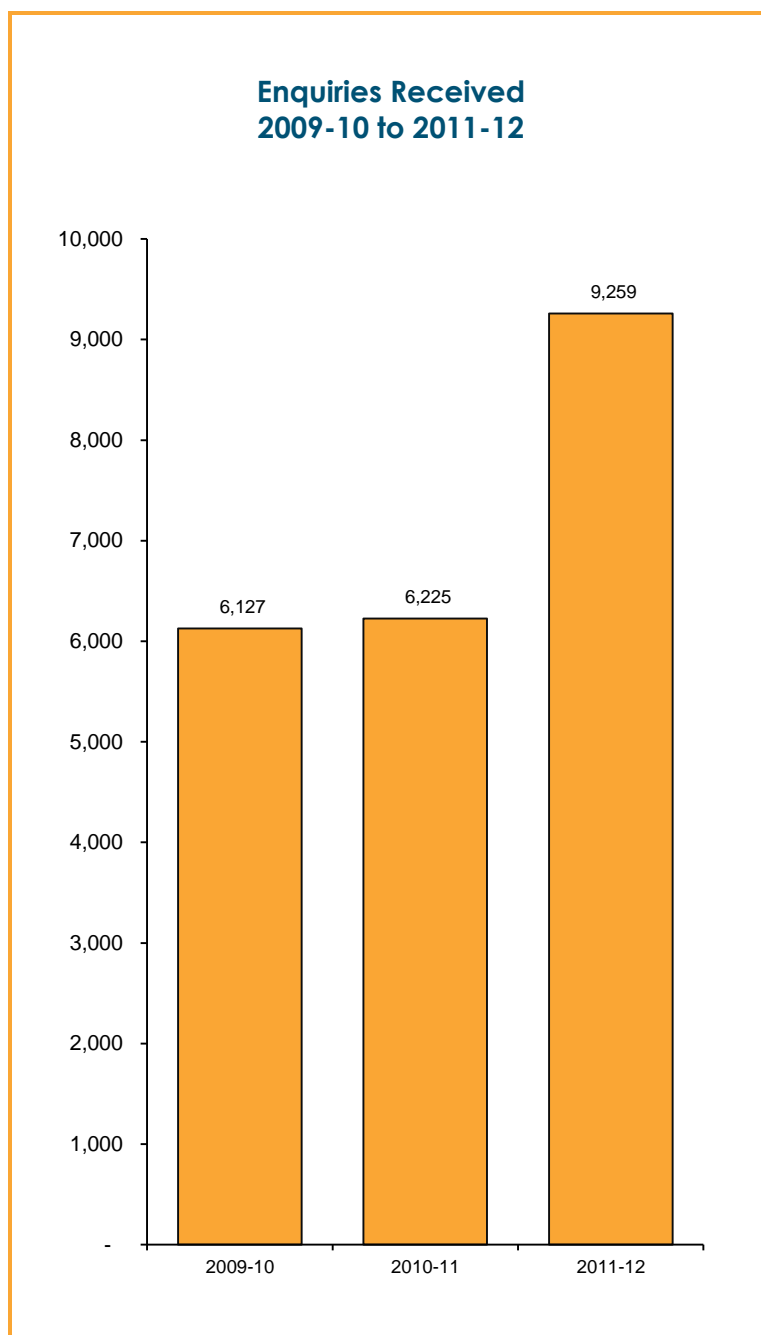
There were 9,259 enquiries received during 2011-12.

For enquiries that are within the Ombudsman's jurisdiction, staff provide information about the role of the Office and how to make a complaint.

Approximately half of all enquiries are referred back to the public authority in the first instance to give it the opportunity to hear about and deal with the issue. This is often the quickest and most effective way to have the issue dealt with. Enquirers are advised that if their issues are not resolved by the public authority, they can make a complaint to the Ombudsman.

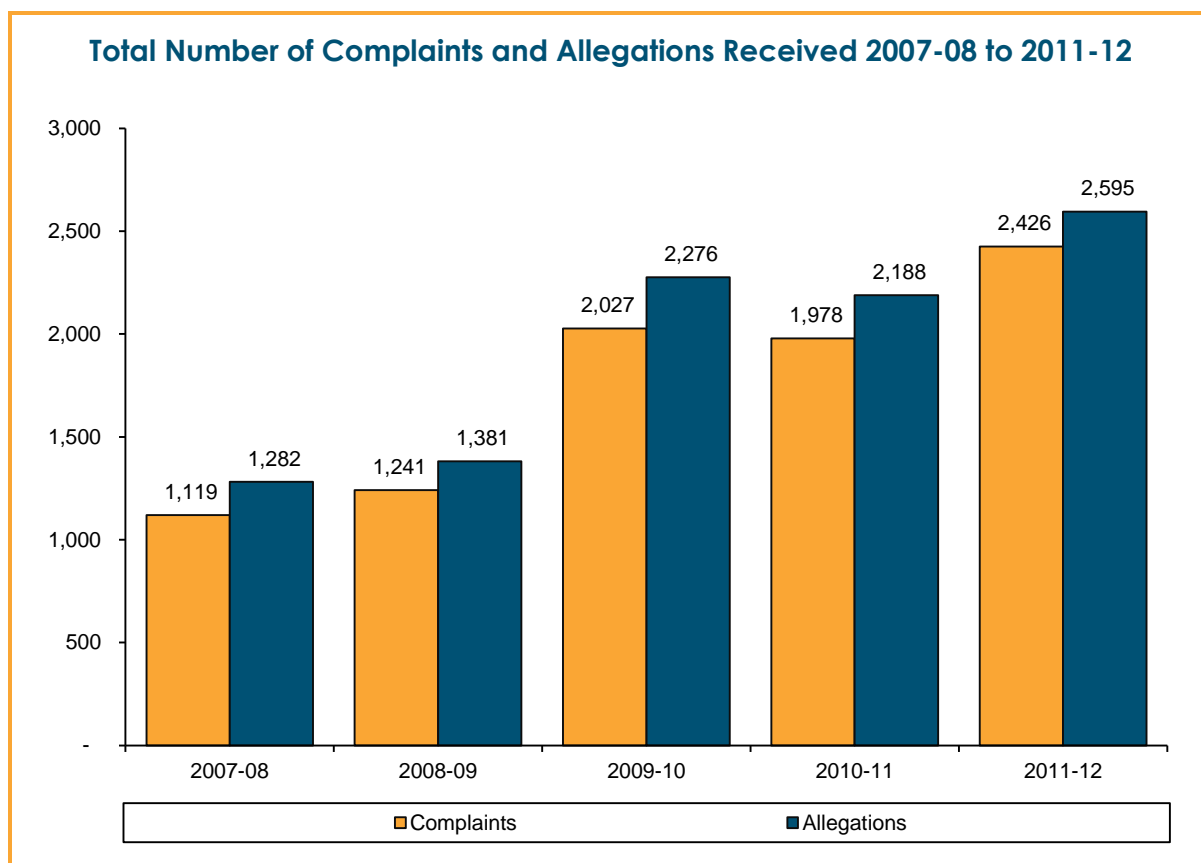
For enquiries that are outside the jurisdiction of the Ombudsman, staff assist members of the public by providing information about the appropriate body to handle the issues they have raised. In some cases, Ombudsman staff may be able to facilitate an early resolution of the matter by making informal contact with the public authority. One example of this is outlined in the following case.

Enquirers are encouraged to try to resolve their concerns directly with the public authority before making a complaint to the Ombudsman.



Complaints Received

In 2011-12, the Office received 2,426 complaints, which included 2,595 separate allegations, and finalised 2,252. There are more allegations than complaints because one complaint may cover more than one issue. As shown in the chart below, the number of complaints received in 2011-12 is higher than that received in the previous four years.

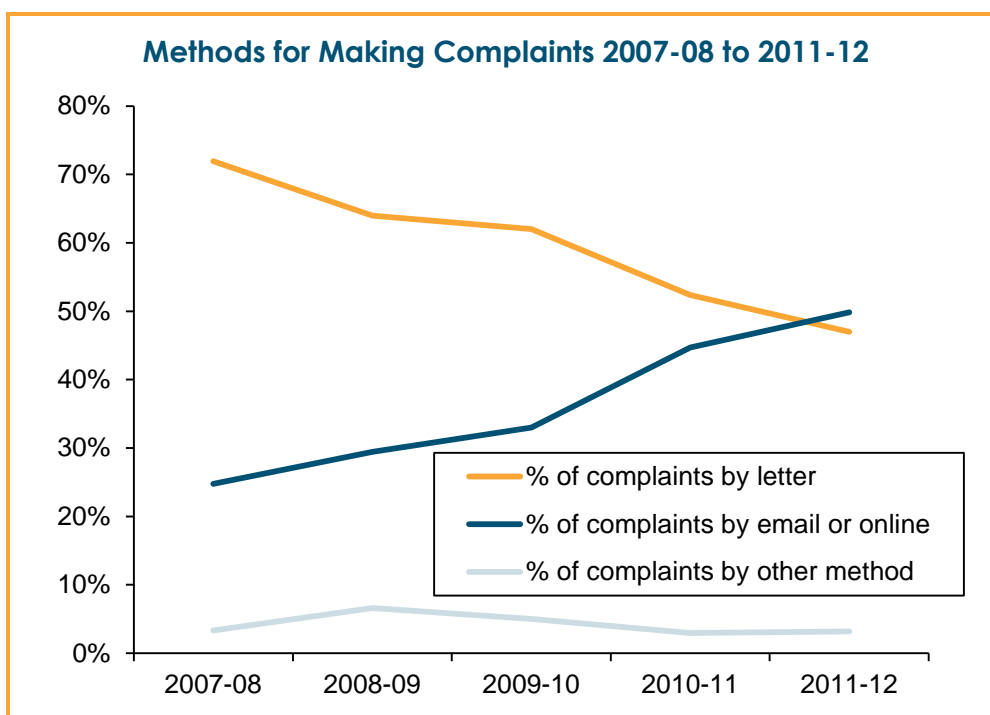


NOTE: The number of complaints and allegations shown for a year may vary, by a very small amount, from the number shown in previous annual reports. This occurs because, during the course of an investigation, it can become apparent that a complaint is about more than one public authority or there are additional allegations with a start date in a previous reporting year.

The average number of complaints received in the last three years (2009-10 to 2011-12) was 2,144 compared with the average of 1,171 for the three previous years (from 2006-07 to 2008-09). This represents an increase of 83 per cent in complaint numbers. The increase is across all sectors and is not confined to one public authority. For further information on trends in complaint numbers, see the [Significant Issues Impacting the Office section](#).

How Complaints are made

The increase in the use of email and online facilities to lodge complaints has continued in 2011-12, increasing from 45 per cent in 2010-11 to 50 per cent in 2011-12. For the first time, email and online facilities have exceeded letters as the preferred method of lodging complaints. The proportion of people using email and online facilities to lodge complaints has more than doubled since 2007-08 when less than 25 per cent were received in this way. During the same period, the proportion of people who lodge complaints by letter has reduced from 72 per cent to 47 per cent. The remaining complaints were received by a variety of means including by fax, during regional visits and in person.



Resolving Complaints

Where it is possible and appropriate, staff use an early resolution approach to resolve complaints. This approach is highly efficient and effective and results in timely resolution of complaints. It gives public authorities the opportunity to provide a quick response to the issues raised and to undertake timely action to resolve the matter for the complainant and prevent similar complaints arising again.

Early resolution involves facilitating a timely response and resolution of a complaint.

The outcomes of complaints may result in a remedy for the complainant or improvements to a public authority's administrative practices, or a combination of both. Complaint resolution staff also track recurring trends and issues in complaints and this information is used to inform broader administrative improvement in public authorities and investigations initiated by the Ombudsman (known as [own motion investigations](#)).

The following case study shows how early resolution can result in timely remedies for a complaint.



Fence replaced through early resolution process

A man's property shared a portion of a back fence with a property owned by a public authority. In the course of installing a new fence at the public authority's property, the authority's contractor damaged seven panels of the man's fence.

The man complained to the public authority, which agreed that the actions of the contractor may have contributed to the damage to the fence. However, the public authority only offered to cover the cost of the replacement and installation of three of the panels.

The man contacted the Ombudsman complaining that the public authority was acting unreasonably by only offering to replace and install three of the fence panels and that it should replace all the damaged panels. As a result of contact from the Office, the public authority agreed to extend its offer and replace all the damaged fence panels.

Time Taken to Resolve Complaints

Timely complaint handling is important, including the fact that early resolution of issues can result in more effective remedies and prompt action by public authorities to prevent similar problems occurring again. The Office's continued focus on timely complaint resolution has resulted in ongoing improvements in the time taken to handle complaints.

Timely complaint handling in 2011-12 meant that:

- 72% of allegations were finalised within 3 months and 99% were finalised within 12 months; and
- There has been a reduction of 10% in the average time to finalise complaints over the last year.

Over the last five years, very significant improvements have been achieved in timely complaint handling, including:

- The average time to finalise complaints decreased by 42% from 92 days in 2006-07 to 53 days in 2011-12; and
- Finalised complaints older than 12 months have decreased by 85% between 2006-07 and 2011-12.

In some cases, timely resolution of complaints is of the essence and public authorities can be quick to recognise this when there are risks to safety. This is illustrated in the following case study.



Changes allow prisoner immediate access to medication

A prisoner suffered from an acute medical condition and was allowed to carry medication at all times to enable prompt treatment of a severe allergic reaction. When he was transferred to a different prison he was advised that this prison did not allow him to carry the medication, which he could only access at the prison's medical centre. The prison also restricted the prisoner's movements and activities within the prison to minimise the risk to his medical condition.

The prisoner complained to the Ombudsman that the different practices of this prison were unfair and unreasonable and compromised his physical wellbeing.

The Office wrote to the responsible public authority about the prisoner's complaint and the apparent inconsistencies in the authority's policy on access by prisoners to emergency medication at different prison sites.

As a result of the complaint the prison allowed the prisoner to carry his medication and the public authority took steps to ensure that all Western Australian prisons developed practices and procedures for the management of prisoners with a medical condition requiring immediate access to emergency medication.

Complaints Finalised in 2011-12

There were 2,252 complaints finalised during the year and, of these, 1,510 were about public authorities in the Ombudsman's jurisdiction. Of the complaints about agencies within jurisdiction, 869 were finalised at initial assessment, 587 were finalised after an Ombudsman investigation and 54 were withdrawn.

Complaints finalised at initial assessment

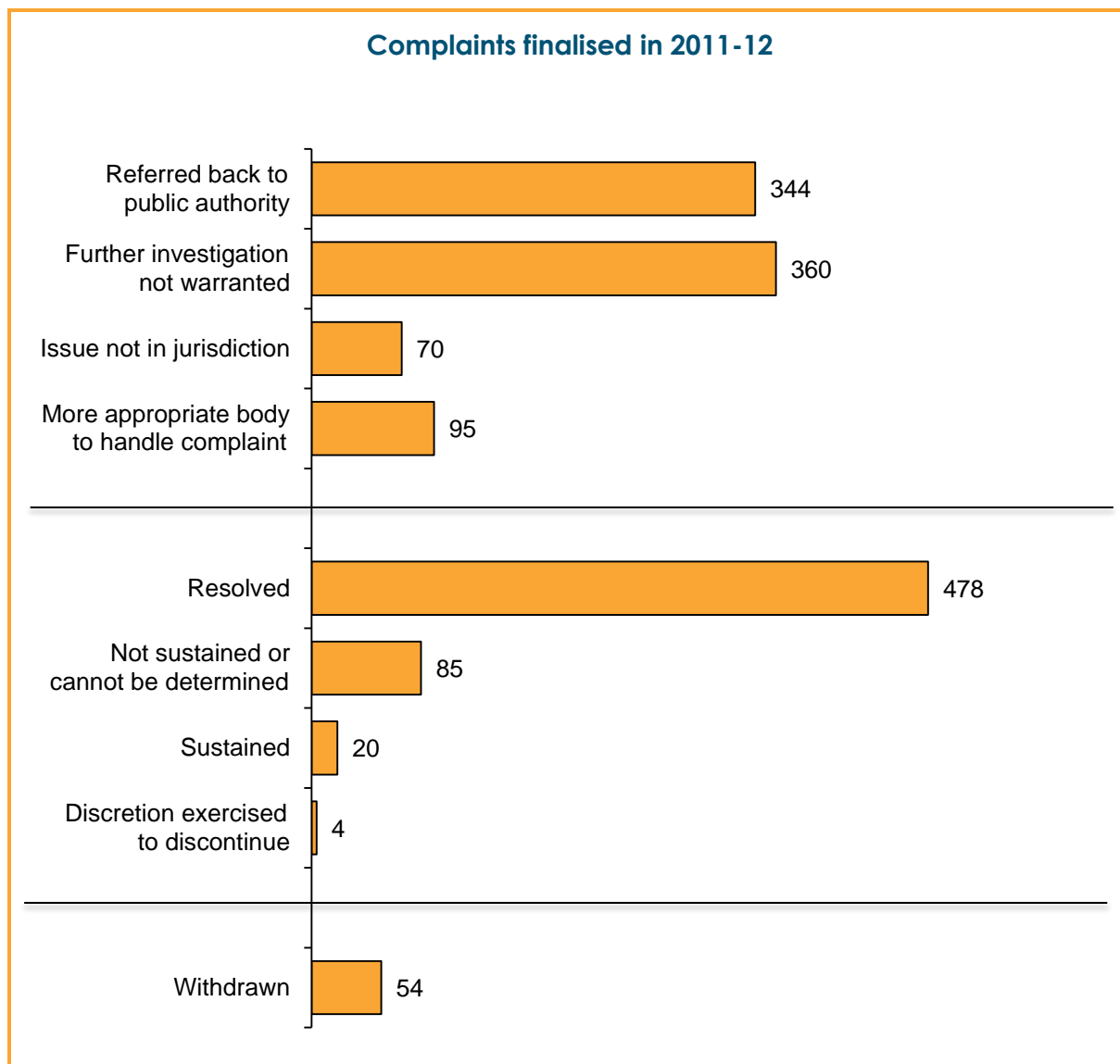
More than a third (40%) of the 869 complaints finalised at the initial assessment were referred back to the public authority to provide it with an opportunity to resolve the matter before involving the Ombudsman. This is a common and timely approach and often results in resolution of the matter. The person making the complaint is advised to contact the Office again if their complaint remains unresolved at the end of this referral process. In a further 11 per cent of complaints finalised at the initial assessment, it was determined that there was a more appropriate body to handle the complaint. In these cases, complainants are provided with contact details of the relevant body to assist them.

Complaints finalised after investigation

Of the 587 complaints finalised after investigation, 81 per cent were resolved through the Office's early resolution process. This involves Ombudsman staff contacting the public authority to progress a timely resolution of complaints that appear to be able to be resolved quickly and easily. Public authorities have shown a strong willingness to resolve complaints using this approach. There has been an increasing trend in early resolution through the use of this process (from 207 in 2009-10 to 478 in 2011-12),

corresponding with a reduction in complaints finalised through more formal processes.

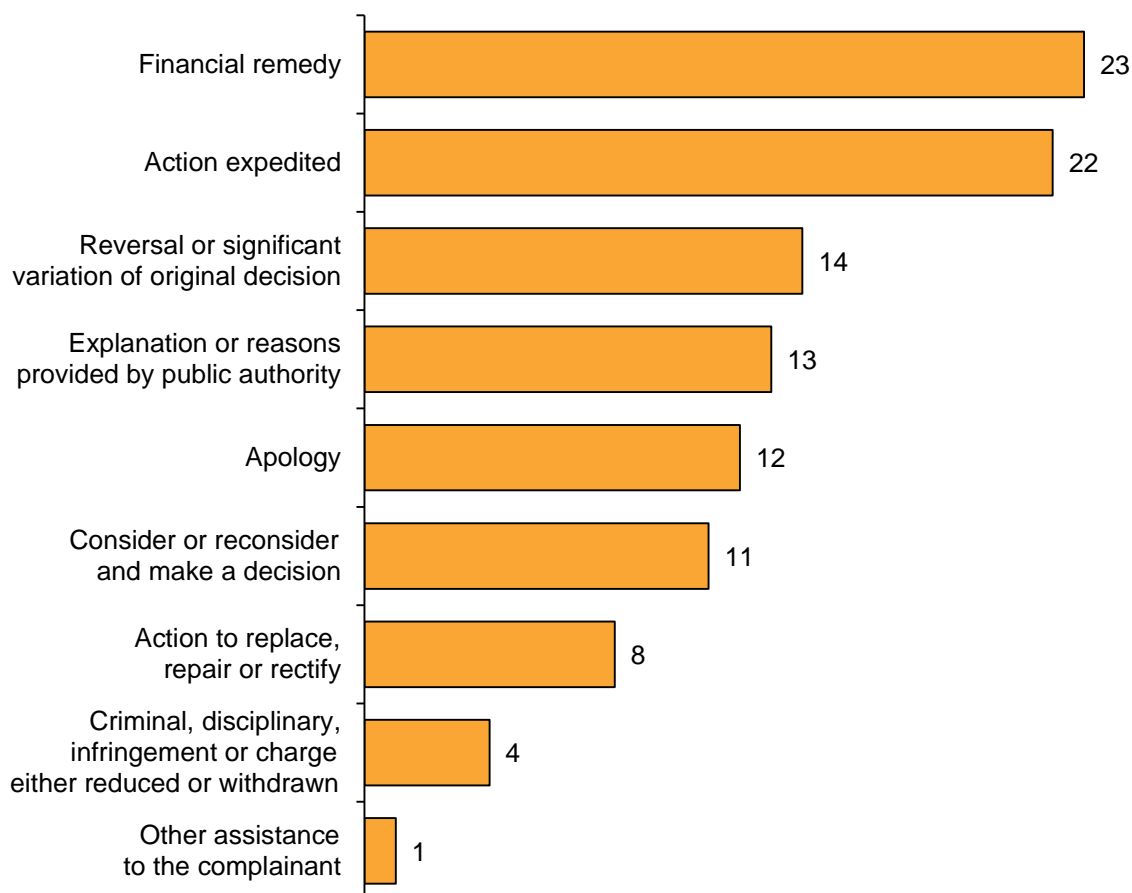
The following chart shows how complaints about public authorities in the Ombudsman's jurisdiction were finalised.



Outcomes to Assist the Complainant

Complainants look to the Ombudsman to facilitate some form of assistance or action to remedy their complaint. In 2011-12 there were 108 remedies provided by public authorities to assist the individual who made a complaint to the Ombudsman, as shown in the following chart.

Remedial Action to Assist the Complainant in 2011-12



Outcomes to Improve Public Administration

In addition to providing individual remedies, complaint resolution can also result in improved public administration. This occurs when the public authority takes action to improve its decision making and practices in order to address systemic issues and prevent similar complaints in the future.

Administrative improvements include changes to policy and procedures, changes to business systems or practices and staff development and training. The following case study illustrates how individual complaints can lead to improved public administration.

Further information on outcomes to improve public administration is provided in the [Own Motion Investigations and Administrative Improvement](#) section.

Public authority improves procedures to prevent future errors

A woman wrote to the Ombudsman alleging that a public authority unreasonably provided her with inconsistent valuations of her property, resulting in receipt of invoices for two different amounts. The woman claimed that she had been overcharged because she had paid on the higher valuation.

The Office contacted the public authority, which investigated the complaint and found that both valuations were incorrect because of flaws in the assessment process.

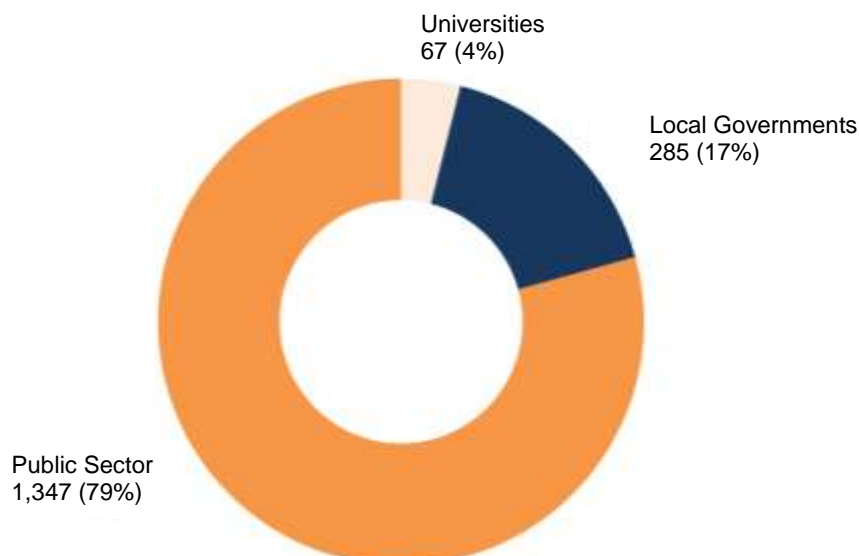
As a result of the complaint, the public authority wrote to the woman explaining what had occurred and apologising for the error. The authority invited her to apply for a refund of the overpayment. In addition, the authority took steps to improve its administrative procedures to ensure that the problem did not reoccur.

About the Complaints

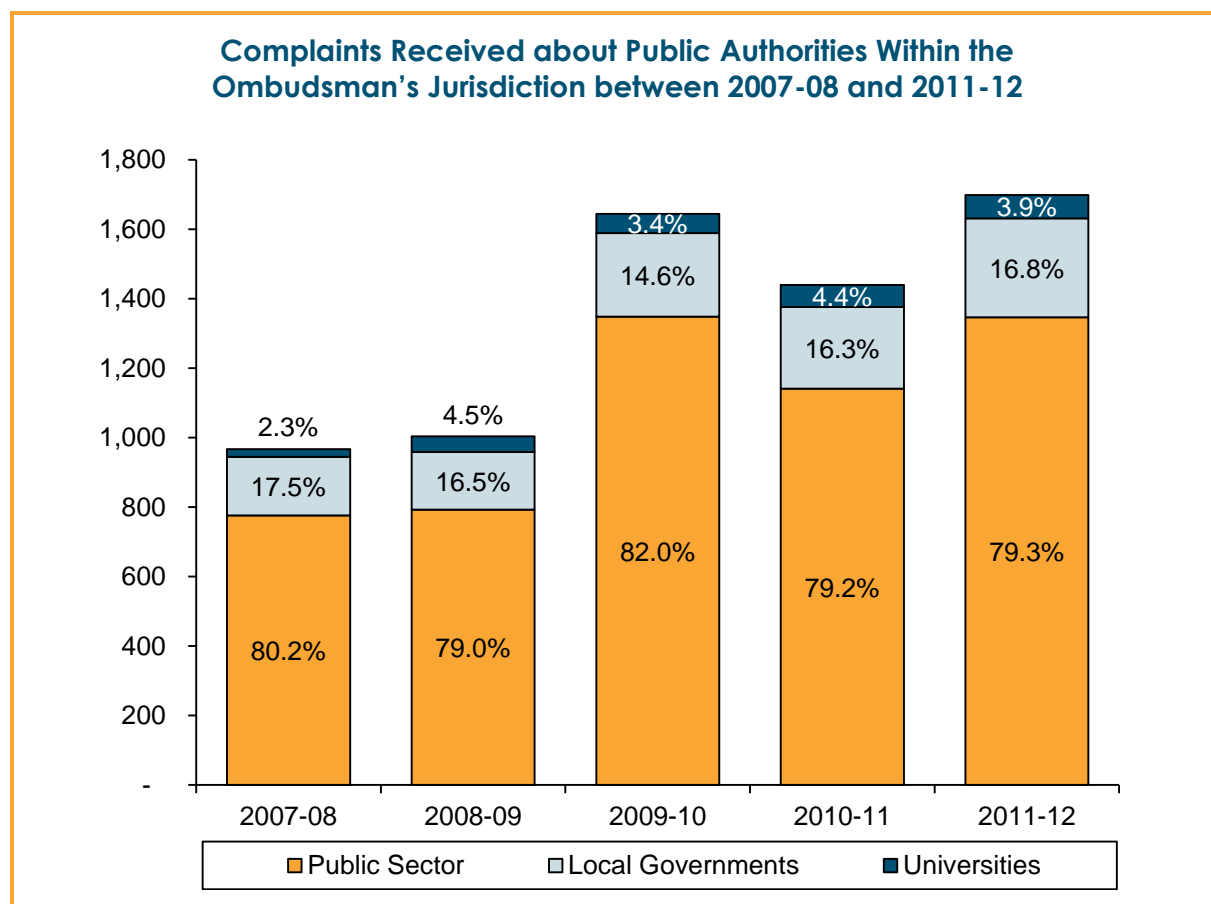
Of the 2,426 complaints received, 1,699 were about public authorities that are in the Ombudsman's jurisdiction. The remaining 727 complaints were about bodies outside the Ombudsman's jurisdiction. In these cases, Ombudsman staff provided assistance to enable the people making the complaint to take the complaint to a more appropriate body.

Public authorities in the Ombudsman's jurisdiction fall into three sectors: the public sector (1,347 complaints) which includes State Government departments, statutory authorities and boards; the local government sector (285 complaints); and the university sector (67 complaints).

Complaints Received about Public Authorities Within the Ombudsman's Jurisdiction in 2011-12



While there has been an increase in complaints in all sectors over the last five years, the proportion of complaints about each sector has remained relatively steady over this period, as shown in the chart below.

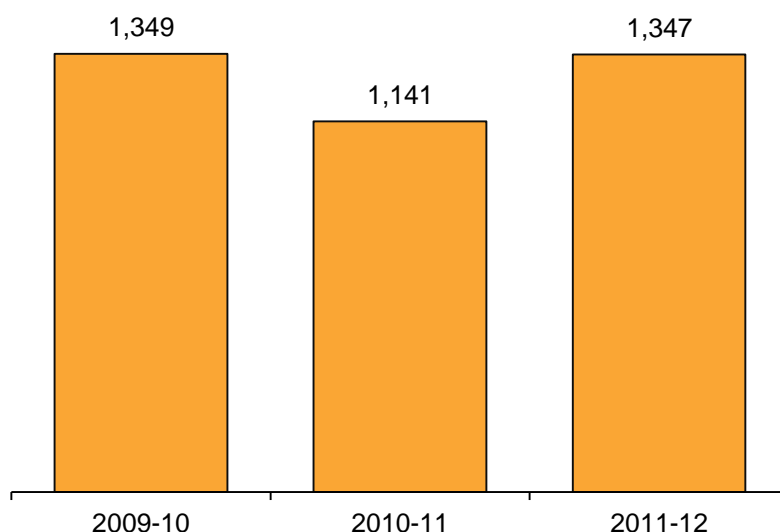


The Public Sector

In 2011-12, there were 1,347 complaints received about the public sector, an increase of 18 per cent compared to 2010-11, and 1,169 complaints were finalised.

The number of complaints about the public sector as a whole in the last three years is shown in the chart below.

Complaints Received About the Public Sector between 2007-08 and 2011-12

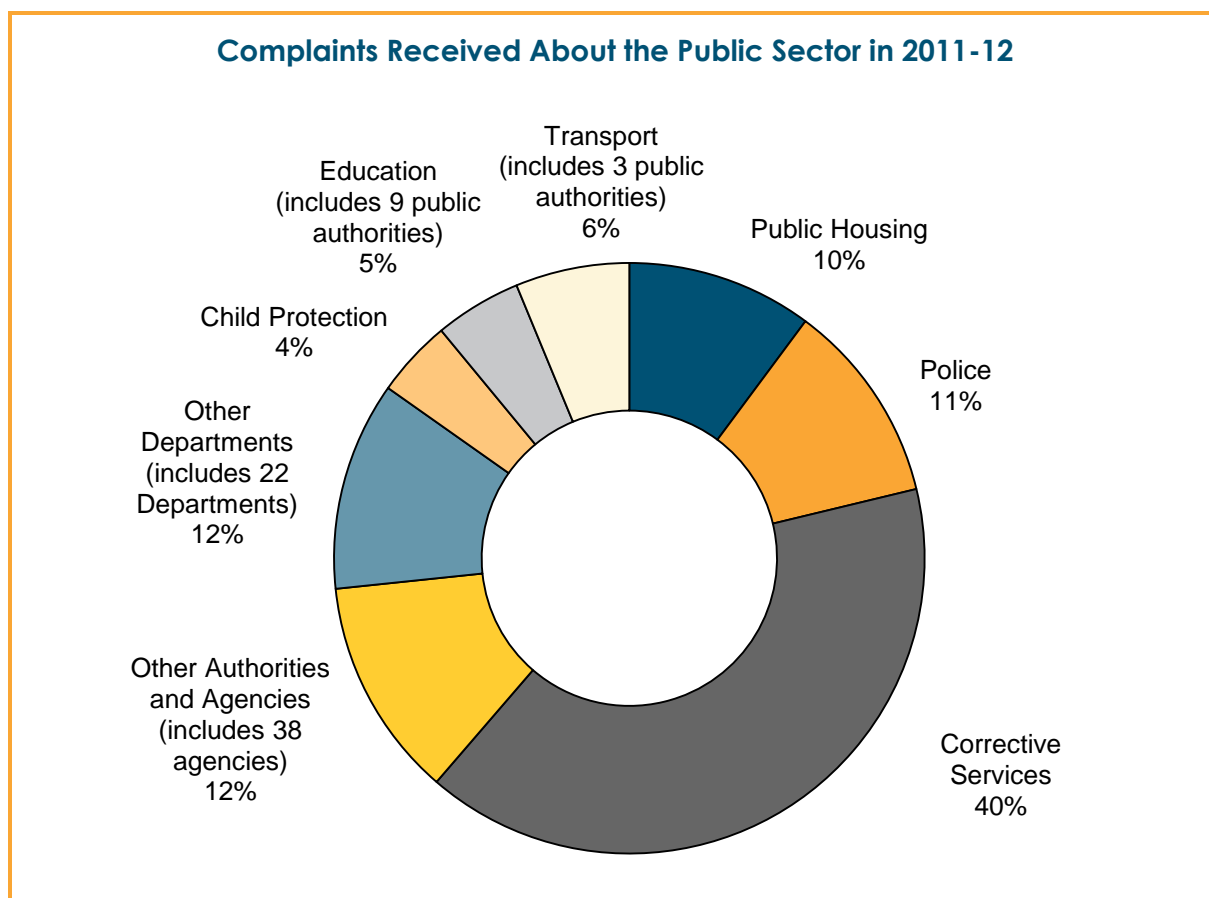


Of the 1,347 complaints received, 76 per cent were about six key areas covering:

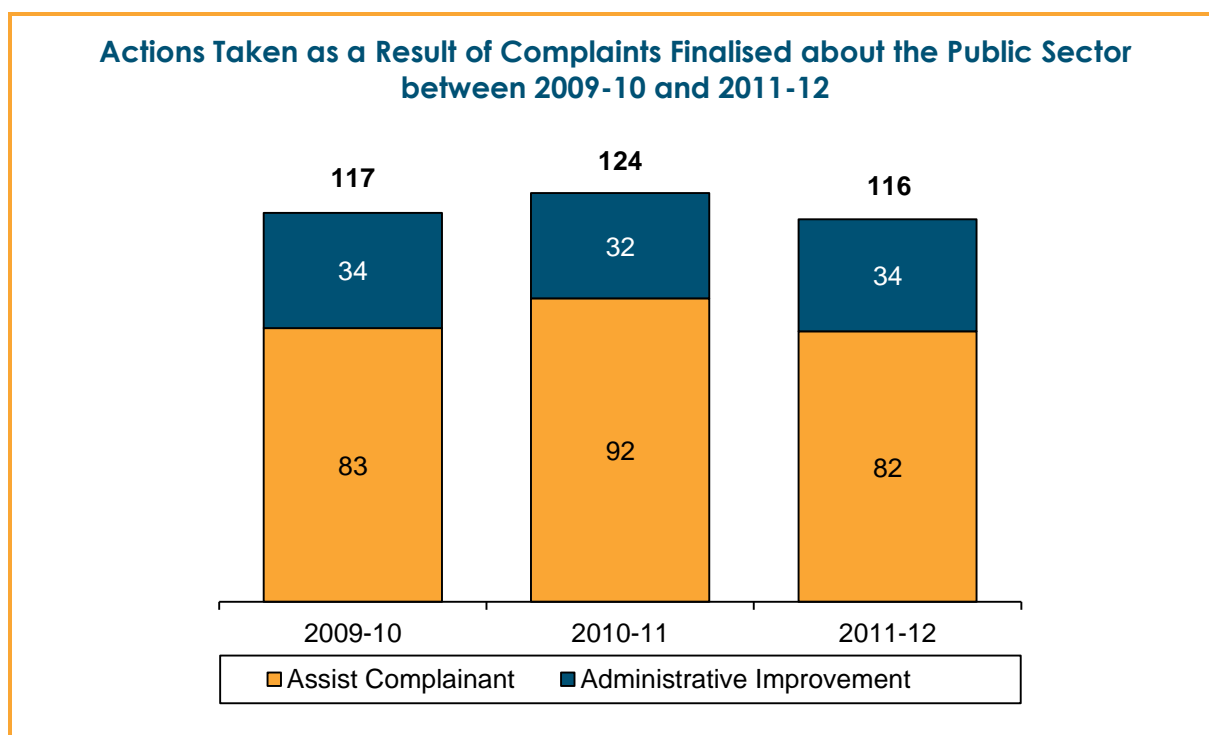
- Corrective services, in particular prisons (540 or 40%);
- Police (149 or 11%);
- Public housing (137 or 10%);
- Transport (84 or 6%);
- Education - public schools and Technical and Further Education colleges (64 or 5%). Information about universities is shown separately under the University Sector; and
- Child protection (57 or 4%).

The remaining complaints about the public sector (316) were about 60 other State Government departments, statutory authorities and boards. Seventy two per cent (43) of these agencies received five complaints or less.

The following chart provides a breakdown of the complaints received.



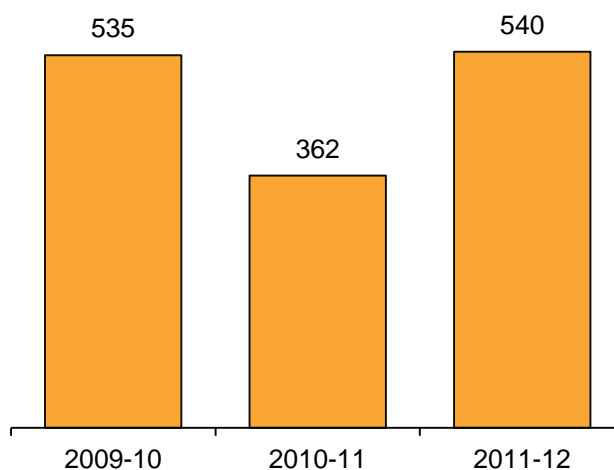
There were 116 actions taken by public sector bodies as a result of complaints finalised in 2011-12. These resulted in 82 remedies being provided to complainants and 34 improvements to public sector practices.



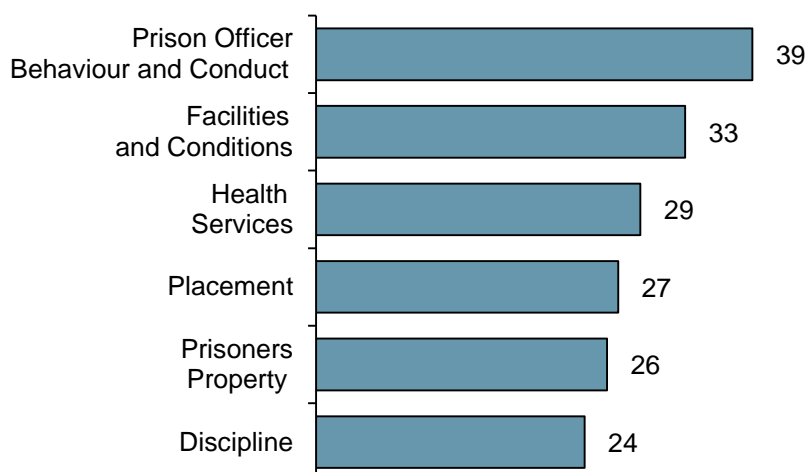
Public Sector Complaint Issues and Outcomes

Corrective Services

Complaints received



Most common allegations



Other types of allegations

- Sentencing and parole issues;
- Communication and visits;
- Drug detection for prisoners;
- Prisoner grievance procedure;
- Education courses and facilities;
- Food and diet; and
- Prisoner employment.

Outcomes achieved

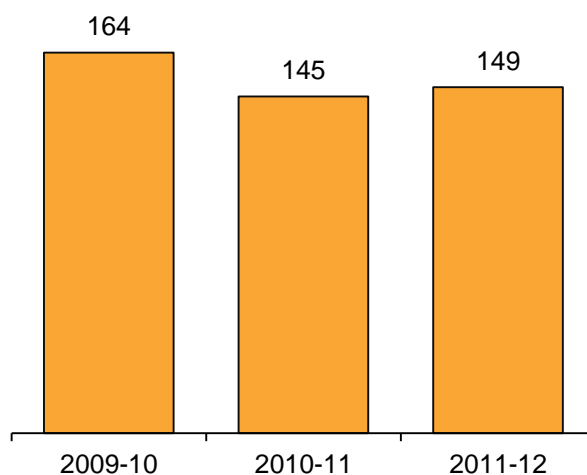
- Changed policy or procedure;
- Punishment or charges reduced or withdrawn;
- Actions expedited;
- Explanations provided; and
- Reversal or significant variation of original decision.

Case Study

Better information for prisoners on remote telephone allowance

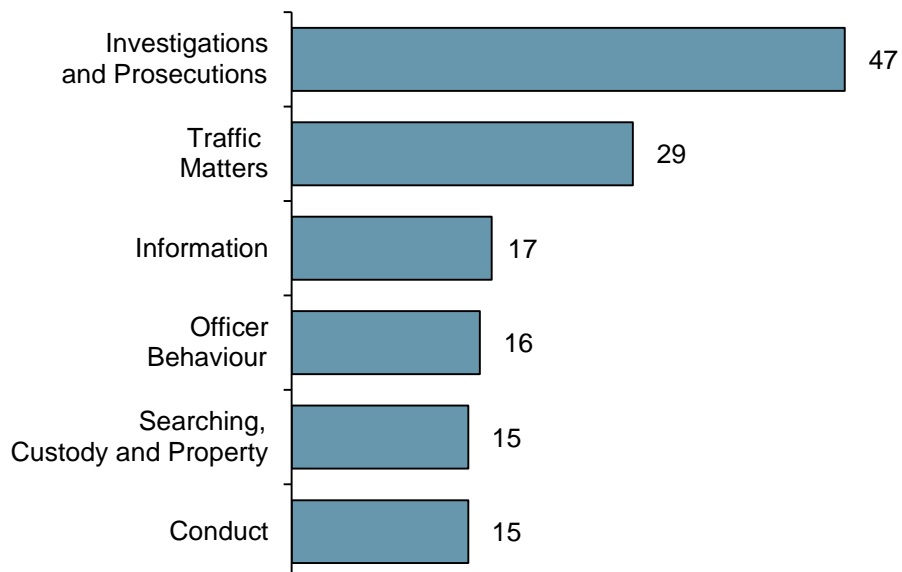
Prisoners in certain Western Australian prisons receive a 'remote telephone allowance' because they cannot receive visits from family or friends. A prisoner wrote to the Ombudsman claiming that the prison had not informed him about the allowance and that he only found about it from another prisoner after he had been in prison for some time and had borrowed money from his son to telephone his children. The prisoner said that the prison refused his request to have the allowance backdated to his admission to the prison because he would have been informed of his entitlement through the prisoner induction program and handbook.

The Office contacted the prison and found that its refusal to backdate the prisoner's remote telephone allowance was in line with the public authority's policy that the allowance could not be credited if not used. However, the enquiries also revealed that information about the allowance was not in the prisoners' handbook and that the prison could not confirm that prisoners were automatically informed of their entitlement during their induction. As a result of the enquiries, the prison produced a new prisoners' induction program and handbook to incorporate information about the allowance and took steps to ensure that officers also advised prisoners of their entitlement during the case management process.

Police**Complaints
received**

Police

Most common allegations



Other types of allegations

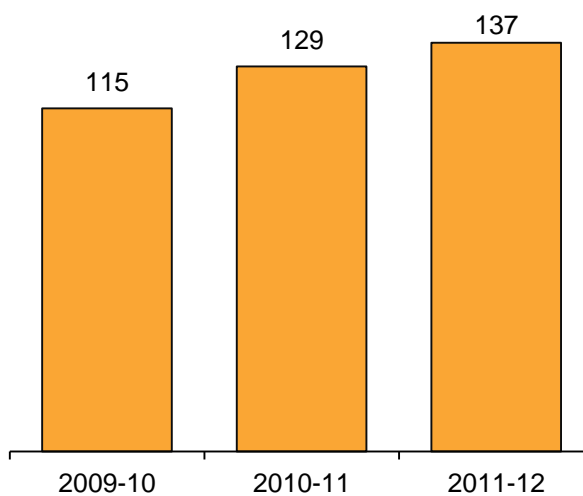
- Arrest and detention;
- Assault; and
- Internal investigation of complaints.

Outcomes achieved

- Refund for incorrect infringement payment.

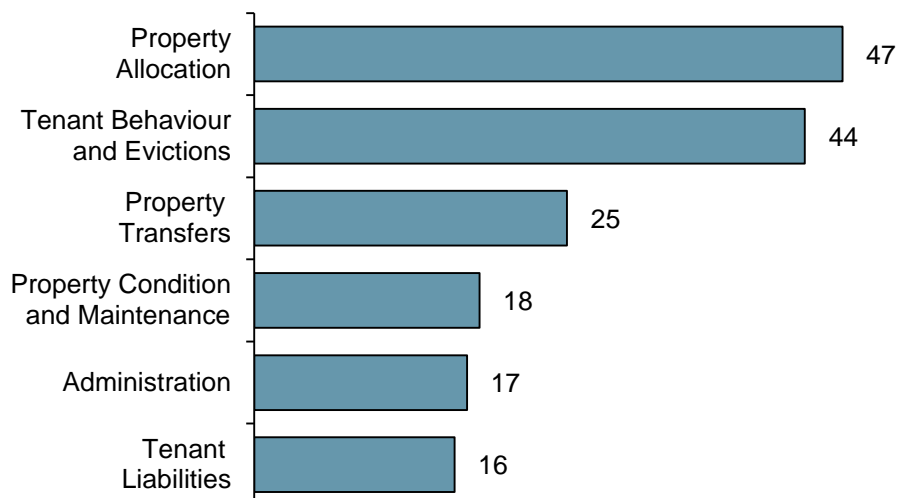
Public Housing

Complaints received



Public Housing

Most common allegations



Other types of allegations

- Debt repayments;
- Rental or bond assistance;
- Construction and development; and
- Rental sales.

Outcomes achieved

- Reversal or significant variation of original decision;
- Actions expedited;
- Apology given;
- Provide training to Officers; and
- Tenant liability waived.



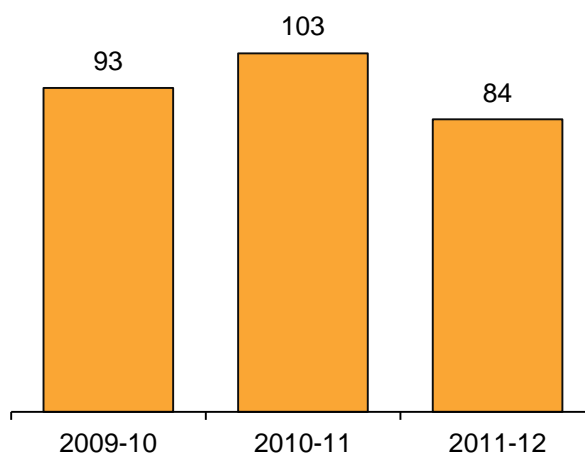
Changes to meet the needs of disabled complainant

A woman living in public housing contacted the Ombudsman complaining about the response to maintenance requirements at the property from the responsible public authority. The woman claimed that the public authority had failed to undertake changes to accommodate the physical disability of her husband. In addition she claimed that the public authority's decision to replace the current garage, which was in need of repair, with an open carport was unreasonable because it removed her access to waterproof storage.

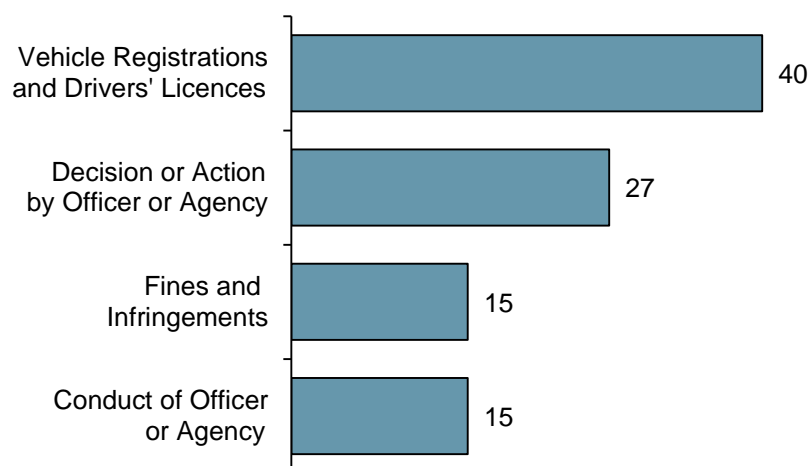
As a result of enquiries by the Office, the public authority arranged a property inspection to review the woman's property. Following this inspection, the public authority advised that it had made the changes recommended by an Occupational Therapist to accommodate the disability needs of the woman's husband and had agreed to replace the garage with another garage instead of an open carport.

Transport

Complaints received



Most common allegations



Other types of allegations

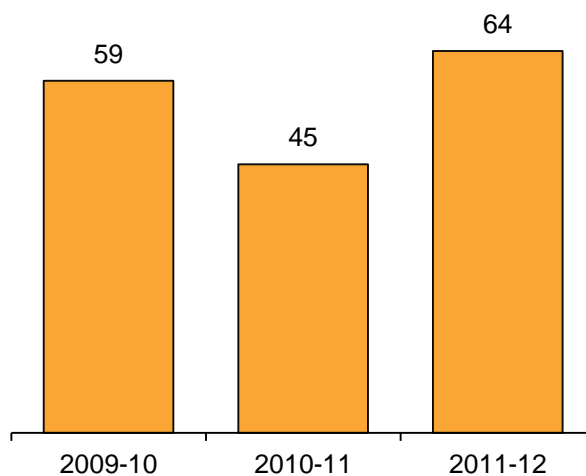
- Provision of information to the public, including on websites; and
- Accuracy of personal information.

Outcomes achieved

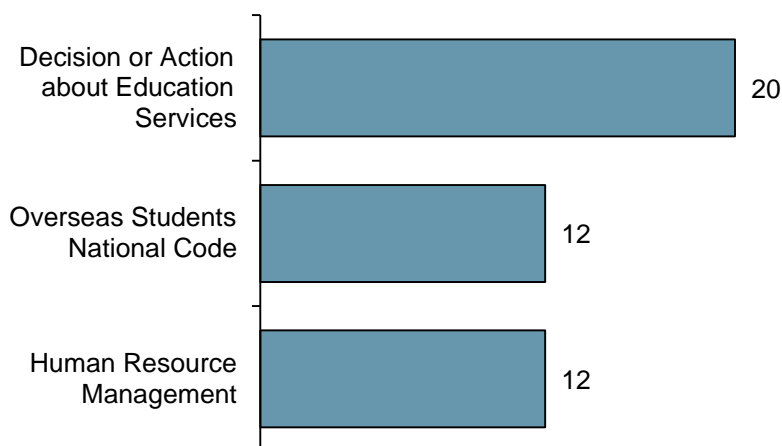
- Change systems;
- Agency officer training;
- Fees waived or penalties withdrawn;
- Refund of infringement payments;
- Apology;
- Act of Grace payment;
- Reversal or significant variation of original decision; and
- Explanation/reasons provided by Agency.

Education

Complaints received



Most common allegations



Other types of allegations

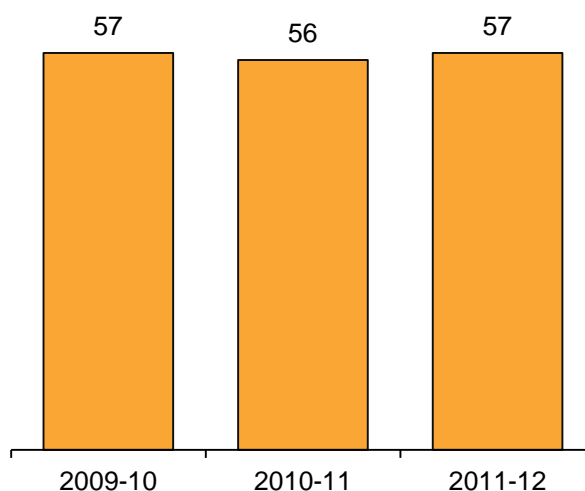
- Enrolment;
- School fees and charges; and
- Examinations, assessments and prizes.

Outcomes achieved

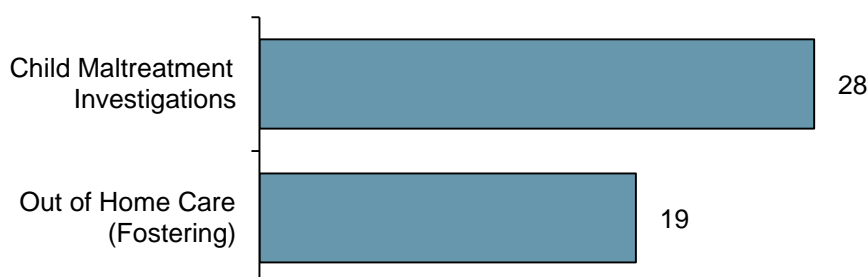
- Changed policy or procedure;
- Apology given;
- Explanation or reasons provided;
- Changed procedures; and
- Course fees refunded.

Child Protection

Complaints received



Most common allegations



Other types of allegations

- Human resource management
- Special assistance; and
- Adoption.

Outcomes achieved

- Improved record keeping; and
- Actions expedited.



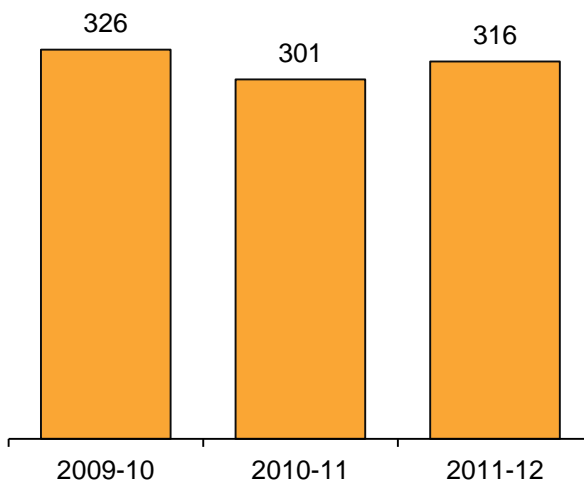
Explanation alleviates concerns of respite carer

A woman who provided monthly respite care to a teenage boy who usually resided with foster carers wrote to the Ombudsman after she had concerns about his development. The respite carer expressed her concerns that the boy did not communicate effectively, and that he may have difficulty when he leaves the care of his foster carers at the age of eighteen.

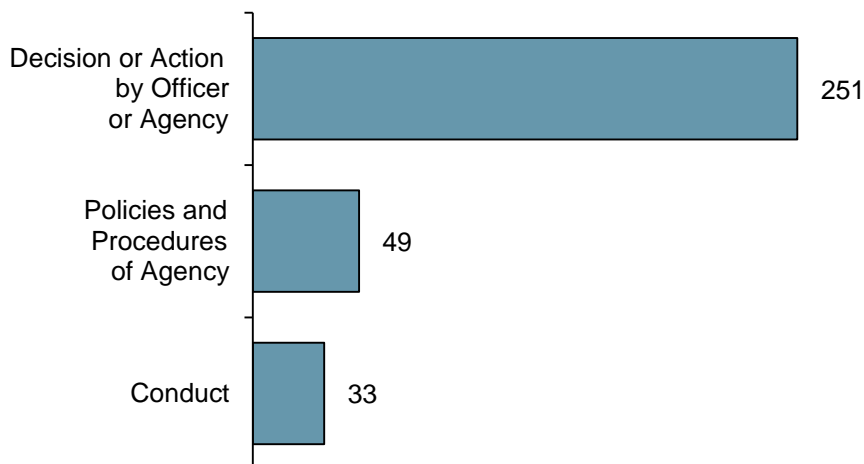
Enquiries made by the Office to the agency responsible for the care of the boy highlighted that the boy has a number of conditions which affect his learning and communication with others. The agency agreed to meet with the respite carer and explain his conditions in greater detail to alleviate her concerns, and to assist her in better understanding the boy's needs.

Other Public Authorities

Complaints received



Most common allegations



Other types of allegations

- Medical or allied health treatment; and
- Human resource issues.

Outcomes achieved

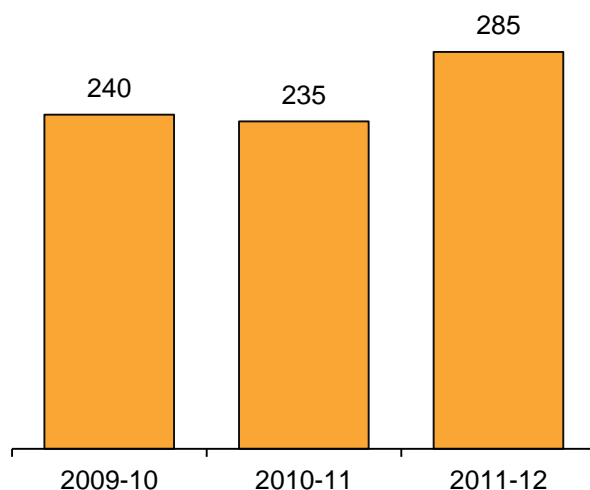
- Change policy or procedure;
- Change systems;
- Improve record keeping;
- Agency officer training;
- Apology;
- Action expedited;
- Explanation or reasons provided by agency;
- Refund of fines and fees; and
- Act of grace payment.

The Local Government Sector

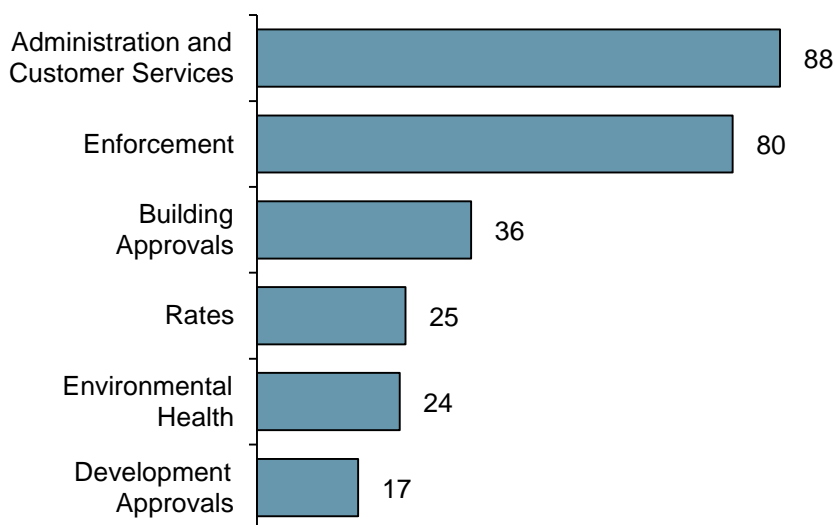
In 2011-12, there were 285 complaints received about the local government sector, an increase of 21 per cent compared to 2010-11, and 272 complaints were finalised. There were 29 actions taken by local governments as a result of complaints finalised.

Local Government

Complaints received



Most common allegations



Other types of allegations

- Engineering;
- Community facilities;
- Planning;
- Contracts and property management;
- Decision or action by officer or local government;
- Investigations and prosecutions;
- Policies or procedures of local government; and
- Traffic Matters.

Local Government

Outcomes achieved

- Change policy/procedure;
- Provide officer training and informal counselling;
- Act of Grace payment;
- Reversal or significant variation of original decision;
- Action expedited;
- Refund of security deposits and write-off of minor debt;
- Explanation / Reasons provided by Agency; and
- Apology.



Improved access for wheelchairs

A woman used a wheelchair for mobility purposes and had complained to the responsible local government that the unevenness of crossover from her driveway to the roadway interfered with her ability to use her wheelchair. The local government advised that it was unable to assist because of the drainage and road safety considerations caused by the location of the woman's property.

The woman wrote to the Ombudsman alleging that the local government's refusal to fix this problem had severely limited her ability to lead a reasonable lifestyle.

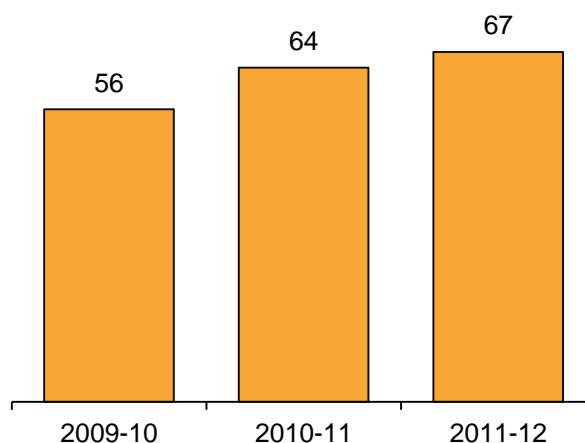
As a result of enquiries by the Office, the local government undertook an inspection of the property and advised that it would install a footpath across the front of the woman's property, together with suitable ramps to allow her to cross the road safely and join the current footpath network. The woman was happy with the local government's actions.

The University Sector

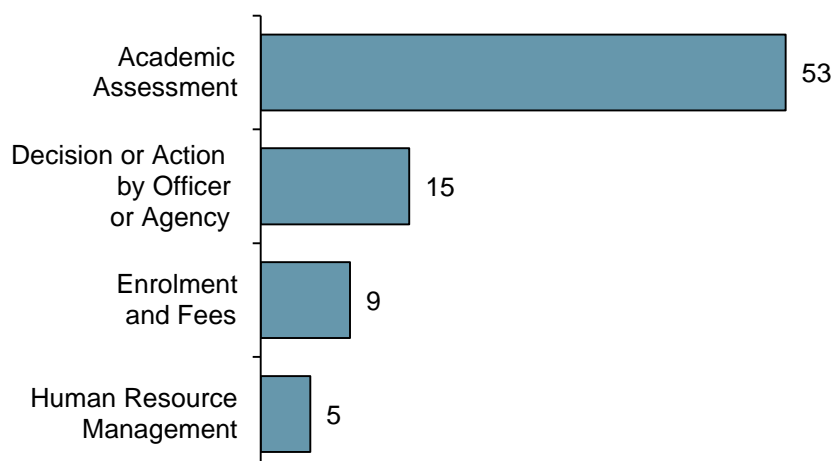
In 2011-12, there were 67 complaints received about the university sector, an increase of 5 per cent compared to 2010-11, and 69 complaints were finalised. There were six actions taken by universities as a result of complaints finalised.

Universities

Complaints received



Most common issues raised



Other types of issues raised

- Enrolment;
- Other dealings with the public; and
- Staff appointment and promotion.
- Complaints include appeals by overseas students under the *National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007*.

Outcomes Achieved

- Change policy or procedure;
- Reversal or significant variation of original decision;
- Apology; and
- Action expedited.



Decision to refuse a student's withdrawal due to illness reversed

An overseas student at a Western Australian University had her enrolment terminated on the basis of poor academic results. In the appeal against the University's decision, the student submitted medical evidence that a medical condition had impacted upon her academic progress and results.

The student subsequently contacted the Office complaining that the University's decision to terminate her enrolment was unfair and unreasonable because it had not taken the medical evidence into account and because decisions about the impact of medical considerations on a student's academic progress were not made by qualified health practitioners.

As a result of enquiries by the Office and discussions with University staff, the University agreed to review its decision and subsequently advised that it had re-enrolled the student who was allowed to continue in the course, subject to a number of conditions.

Other Complaint Related Functions

Reviewing Appeals by Overseas Students

The [*National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007*](#) (**the Code**) sets out standards required of registered providers who deliver education and training to overseas students studying in Australia. It provides overseas students with rights of appeal to external, independent bodies if their internal appeal with their education or training provider is unsuccessful. Overseas students studying with both public and private education providers have access to an Ombudsman who:

- Provides a free complaint resolution service;
- Is independent and impartial and does not represent either the overseas students or education and training providers; and
- Can make recommendations arising out of investigations.

In Western Australia, the Office is the external appeals body for overseas students studying in Western Australian public education and training organisations. The [*Commonwealth Ombudsman*](#) is the external appeals body for overseas students studying in private education and training organisations.

Complaints Lodged with the Office under the Code

Education and training providers are required to comply with 15 standards under the Code. In dealing with these complaints, the Ombudsman considers whether the decisions or actions of the agency complained about comply with the requirements of the Code and if they are fair and reasonable in the circumstances.

During 2011-12, the Office received 37 complaints about public education and training providers from overseas students under the Code, and finalised 37 complaints about 54 issues. Thirty of the finalised issues were about termination of enrolment decisions made by universities and public training providers and 24 were about other issues such as course transfers and marking. These complaints and issues can be further broken down as follows:

- **Universities** - 26 complaints about 42 issues with 25 issues about termination of enrolment decisions.
- **TAFEs** - 8 complaints about 9 issues with 4 issues about termination of enrolment decisions.
- **Other Education agencies** - 3 complaints about 3 issues with 1 issue about termination of enrolment decisions.

Public Interest Disclosures

Section 5(3) of the [Public Interest Disclosure Act 2003](#) allows any person to make a disclosure to the Ombudsman about particular types of 'public interest information'. The information provided must relate to matters that can be investigated by the Ombudsman, such as the administrative actions and practices of public authorities or involve the improper conduct of public officers.

Key members of staff have been authorised to deal with disclosures made to the Ombudsman and have received appropriate training. They assess the information provided to determine whether the matter requires investigation, having regard to the [Public Interest Disclosure Act 2003](#), the [Parliamentary Commissioner Act 1971](#) and relevant guidelines. If a decision is made to investigate, subject to certain additional requirements regarding confidentiality, the process for investigation of a disclosure is the same as that applied to the investigation of complaints received under the [Parliamentary Commissioner Act 1971](#).

During the year, the Ombudsman completed the investigation of one disclosure and three new disclosures were received.

Indian Ocean Territories

Under a service delivery arrangement between the Ombudsman and the Commonwealth Government, the Ombudsman handles complaints from residents of the Indian Ocean Territories about public authorities in the Ombudsman's jurisdiction. In 2011-12, the Office received two complaints from the Indian Ocean Territories and finalised three.

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 during the year.

Requests for Review

Occasionally, the Ombudsman is asked to review or reopen a complaint that was investigated by the Office. The Ombudsman is committed to providing complainants with a service that reflects best practice administration and, therefore, offers complainants who are dissatisfied with a decision made by the Office an opportunity to request a review of that decision.

Thirty seven requests for review were received in 2011-12, less than two per cent of the total number of complaints finalised. Two reviews resulted in the original decision being amended in part or in whole. In all other cases where a review was undertaken, the original decision was upheld.