

QUEENSLAND ombudsman

Annual Report 2009 - 2010



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Queensland Ombudsman

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September 2010

The Honourable Cameron Dick MP
Attorney-General and Minister for Industrial Relations
Level 18, State Law Building
50 Ann Street
Brisbane Qld 4000

Dear Mr Dick

I am pleased to present the Annual Report 2009-2010 for the Office of the Queensland Ombudsman.

I certify that this Annual Report complies with:

- the prescribed requirements of the *Financial Accountability Act 2009* and the *Financial and Performance Management Standard 2009*, and
- the detailed requirements set out in the *Annual Report Requirements for Queensland Government Agencies*.

A checklist outlining the annual reporting requirements can be found at www.ombudsman.qld.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D Bevan', with a long horizontal flourish extending to the right.

David Bevan
Queensland Ombudsman

About this report

The *Queensland Ombudsman Annual Report 2009-2010* meets reporting obligations under the *Ombudsman Act 2001* and the *Financial Accountability Act 2009*.

In addition to this statutory obligation, it also provides information of our progress and performance towards meeting the four core objectives outlined in our *Strategic Plan 2010-2015*, to:

- promote administrative justice by providing an independent, fair and effective investigative service
- contribute to improving the quality of administrative practice in Queensland public sector agencies
- ensure all sections of the community are aware of, and have reasonable access to, our services
- promote organisational excellence and a skilled, committed workforce.

In so doing, this report also provides details of our future direction.

Copies of this report can be viewed or downloaded from the Queensland Ombudsman website: www.ombudsman.qld.gov.au.

We value your feedback

This report aims to ensure outcomes of our activities are clearly communicated to the community. We invite you to contact us with any comments or suggestions about this report.

By providing feedback, you will ensure that we continue to improve our reporting standards and meet your information needs. You can send feedback via:

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35 YEARS

of administrative improvement,
complaints resolution, investigations,
independent decision-making and
community engagement.

SECTION 1

Our organisation

OUR VISION

Excellence in public sector decision-making and administrative practice.

OUR GOAL

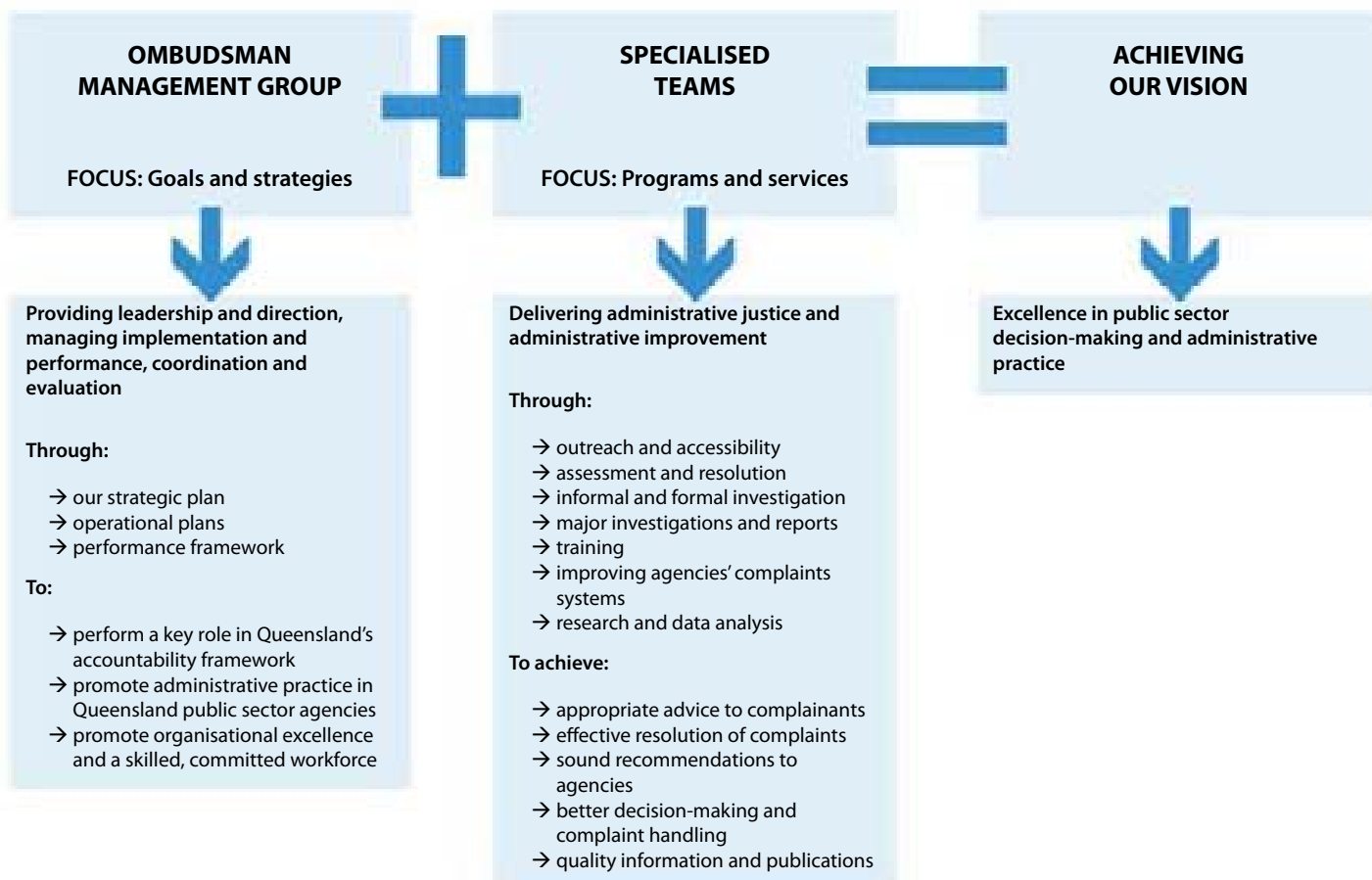
To play a lead role in promoting fair decision-making by public sector agencies.

OUR VALUES

In everything we do, we value the principles of:

- fairness, independence and impartiality
- integrity and honesty
- respect for all people
- professionalism and diligence
- efficiency and responsiveness.

OUR SERVICE STRUCTURE



KEY RESULTS

Complaints

	SDS* target	08-09	09-10	% change
Received		7,460	8,717	17% ↑
Finalised	7,000	7,448	8,708	17% ↑
Open at 30 June		312	295	5% ↓
% recommendations accepted	90%	98%	100%	2% ↑

*Service Delivery Statement

Training

	SDS target	08-09	09-10	% change
Sessions	100	106	120	13% ↑
Officers trained		1,798	2,056	14% ↑

Finance

	08-09 – \$'000	09-10 – \$'000	% change
Revenue	7,006,000	7,049,000	<1%
Expenses	7,006,000	7,034,000	<1%

HIGHLIGHTS



Launched the 'It's OK to Complain' website, which provides information to the general public on the main complaint agencies operating in Queensland and helps them find the right agency to investigate their complaint in the first instance. (see p.76)



Launched *Corrections Perspective*, a newsletter providing tips and case studies on good decision-making, record-keeping, and complaints handling for Queensland Corrective Services officers. (see p.72)



Established the Ombudsman Audit Committee, in line with the *Financial Accountability Act 2009*, to provide independent assurance and advice regarding risk control, compliance frameworks and external accountability responsibilities. (see p.84)



Upgraded our case management system to standardise the Office's reporting processes and generate reports with a higher level of efficiency. (see p.91)



Experienced continued growth in complaints received electronically (by email or our online complaint form) 25% in 2009-2010: 22% in 2008-2009. (see p.27)



Awarded first place in the Most Readable Annual Report category for the second consecutive year, and third place in the Best Other Public Sector Entity Annual Report category at the Institute of Internal Auditors Australia Queensland Public Sector Annual Report Awards. (see p.83)

HIGHLIGHTS

19,652

complaints and other inquiries
(2008-2009: 17,771) (see p.26)

8,708

complaints finalised
(2008-2009: 7,448) (see p.29)

120

Good Decisions and Complaints Management
training sessions delivered
(2008-2009: 106) (see pp.70-71)

0

open complaints more than 12 months old as
at 30 June 2010 (for the first time since this
statistic was recorded in 1996) (see p.29)

295

open complaints as at
30 June 2010 (see p.28)

69%

of complaints finalised within
10 working days (see p.29)

4

major reports
published
(see p.60)

193

recommendations
made (see p.32)

PERFORMANCE SUMMARY

→ Objective 1

Promote administrative justice by providing an independent, fair and effective investigative service

Outcomes sought 2009-2010	What we accomplished	Looking forward 2010-2011
Maintain an efficient and timely complaints management service	Received 8,717 complaints (2008-2009:7,460) (see p.26) We finalised 6,014 (69%) complaints within 10 days of receipt (2008-2009:66%) (see p.28) No complaints over 12 months old as at 30 June 2010 (see p.29)	Continue to assess and respond to complaints in a timely manner and monitor compliance with performance standards
Continue our focus on using informal resolution processes	Resolved 99% of 8,708 complaints using informal resolution processes (2008-2009: 99%, Service Delivery Statement target 95%) (see p.29)	Continue to monitor informal resolution practices Continue to train staff in informal resolution techniques
Conduct high quality investigations of complaints	Completed 1,260 investigations (2008-2009:1,155) (see p.32)	Continue to prepare investigative plans for all significant investigations
Make recommendations to rectify the effect of maladministration on complainants	Made 193 recommendations to public sector agencies, to rectify maladministration or improve public administration (see p.32) Encouraged acceptance of our recommendations by providing agencies with opportunity to comment Monitored and assessed agencies' implementation of 193 recommendations, of which 181 were accepted and 12 were pending a response (see pp.32-33)	Continue to monitor agencies' responses to our recommendations and report on their responses in significant cases Continue to provide agencies with a reasonable opportunity to comment on our proposed recommendations

→ Objective 2

Contribute to improving the quality of administrative practice in Queensland public sector agencies

Outcomes sought 2009-2010	What we accomplished	Looking forward 2010-2011
Monitor the effectiveness of agencies' internal complaints management systems	Finalised a review of complaints management systems of Queensland government agencies (see p.61)	Conduct operational audits of agencies' complaints management systems Publish report on the audit of local councils' complaints management systems
Provide training programs on good administrative practice	Delivered 120 training sessions to 2,056 public sector officers throughout Queensland on good decision-making and complaints management practices (see pp.70-71)	Continue to deliver Good Decisions Training and Complaints Management Training to public sector officers throughout Queensland
Make recommendations to improve administrative practice based on our investigations and administrative reviews	Monitored and assessed agencies' implementation of 193 recommendations, of which 181 were accepted and 12 were pending a response (see pp.32-33)	Continue to focus on systemic maladministration and monitor agencies' implementation of our recommendations
Provide advice to agencies to encourage good administrative practice	Published the following newsletters: → <i>State Perspective</i> : three editions → <i>Local Perspective</i> : three editions → <i>Legal Perspective</i> : two editions → <i>Corrections Perspective</i> : launched in April 2010 and to be published twice a year (see p.72) Provided extensive advice to agencies to improve their complaints management systems (see pp.61,68)	Continue to publish newsletters and increase circulation across state agencies and local councils Create a case study library on our website for use by agencies Continue to provide advice and training to agencies on good decision-making and complaints management
Provide reports to Parliament highlighting significant deficiencies in administrative practice	Published and tabled in Parliament: → <i>Complaints Matter: A review of the complaints management systems of Queensland government agencies</i> → <i>The Classification and Movement of Prisoners Report</i> → <i>Justice on the Inside Report</i> → <i>Tips and Traps for Regulators</i> (2nd Ed) (see pp.60-61)	Continue to publish public reports highlighting systemic deficiencies in administrative practice

PERFORMANCE SUMMARY

→ Objective 3

Ensure all sections of the community are aware of and have reasonable access to the Office's services

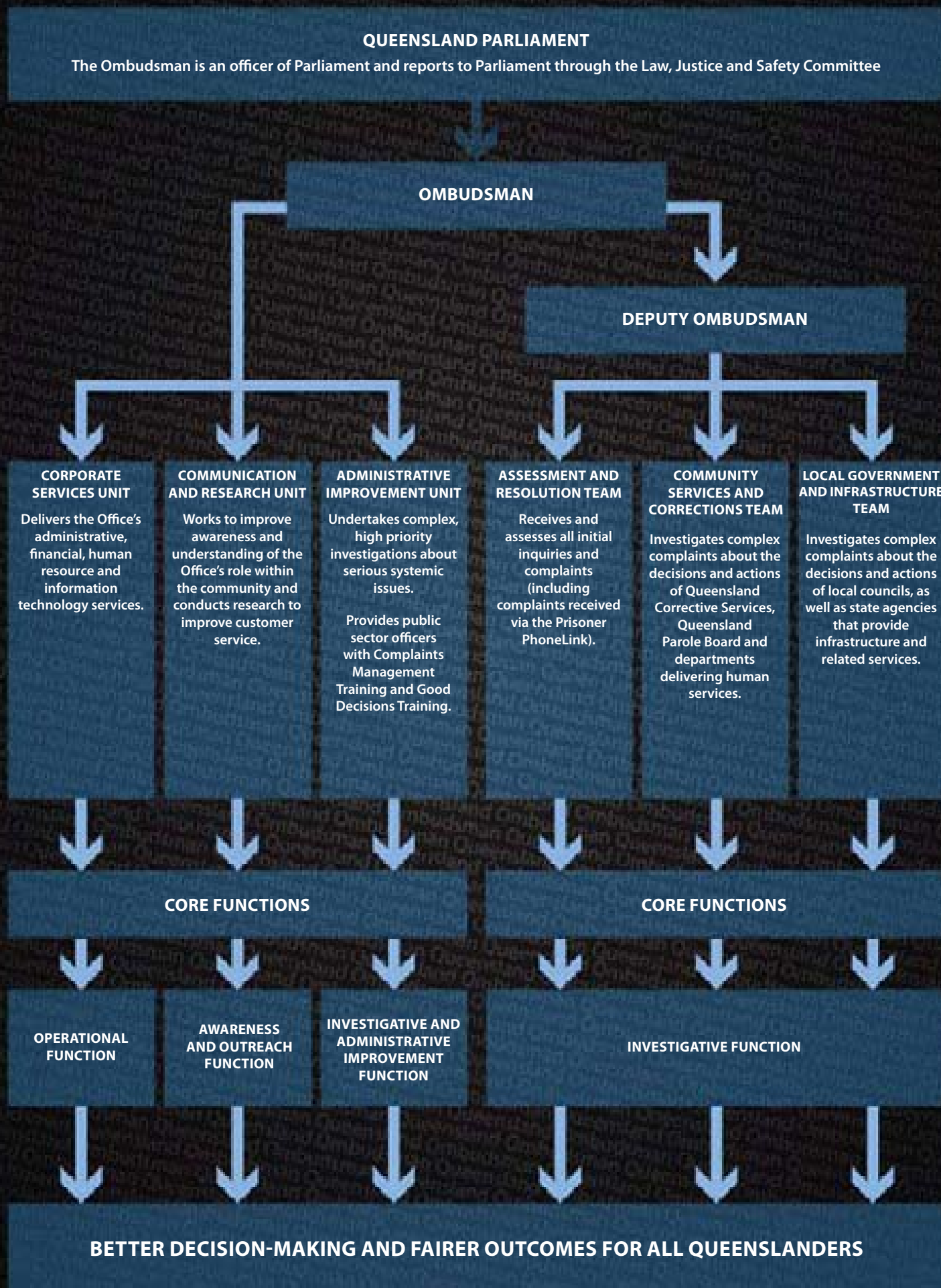
Outcomes sought 2009-2010	What we accomplished	Looking forward 2010-2011
Promote and monitor awareness of the Office's role	Performed a lead role in developing: → a complaints website www.complaints.qld.gov.au, which provides an entry point to the main public and private complaint agencies operating in Queensland (see p.76) → the <i>It's OK to complain</i> brochure, which was translated into 15 languages and distributed to more than 1,500 community groups throughout Queensland (see p.77) Conducted three media campaigns in regional Queensland to raise awareness of the Office (see p.74)	Promote the complaints website in conjunction with other independent complaint agencies Coordinate resources with other independent complaint agencies to increase community awareness and understanding of our respective roles Continue conducting media campaigns to increase awareness of the Office, particularly in regional Queensland
Provide all sections of the community with reasonable access to our services	Visited regional Queensland on 65 separate occasions to investigate complaints, inspect systems at correctional centres and provide training to state and local government officers (see p.75) Provided access to our Office to prisoners via Prisoner PhoneLink (see p.77) Completed a review of our website and identified ways of improving public access and usability (see p.79) Continued our partnership with Smart Services Queensland to use their 77 regional offices to provide information on our Office and how to make a complaint (see p.74) Implemented a Multicultural Action Plan that outlines our strategies for responding to our culturally diverse community (see p.76)	Continue to provide training to state and local government officers in regional areas Continue to visit each correctional centre at least annually to investigate complaints and review systems Continue providing a Prisoner PhoneLink service Implement changes to our website to enhance access and usability Continue the partnership with Smart Services Queensland Continue to implement strategies in our Multicultural Action Plan

→ Objective 4

Promote organisational excellence and a skilled, committed workforce

Outcomes sought 2009-2010	What we accomplished	Looking forward 2010-2011
Maintain a high standard of corporate governance	Obtained unqualified audit from the Queensland Audit Office (see p.83) Implemented the Ombudsman Audit Committee in compliance with Financial Accountability Act	Work with the Ombudsman Audit Committee to ensure ongoing compliance with governance requirements
Attract, develop and maintain a skilled workforce in a changing environment	Continued to provide training for our investigators under the Certificate IV in Government (Investigations) program (see p.90) Completed executive leadership training for the Ombudsman Management Group (see p.90) Continued with workplace wellness programs such as flu shots and ergonomic assessments (see p.90)	Fund and encourage officers to complete the Certificate IV in Government (Investigations) Provide training and development for officers on informal resolution and mediation Continue to provide all staff with professional development and training opportunities
Foster a culture of innovation, commitment and service	Identified office improvements by supporting the staff-led Innovation Committee (see p.85) Completed Complainant Satisfaction Survey (see p.79) Completed survey of liaison and other officers we deal with in public agencies about our performance (see p.79)	Encourage staff to contribute to the Innovation Committee and continue to support the work of the committee Implement improvements identified from the Complainant Satisfaction Survey and the survey of liaison and other officers we deal with in public agencies about our performance Conduct a survey to measure the effectiveness of our processes of referring people to appropriate complaints agencies if their complaint is not within our jurisdiction
Provide staff with appropriate resources to deliver high quality services	Upgraded our case management system (see p.91)	Update our case management system to inform our business processes Replace desktop computers and servers and upgrade operating platform to Windows 7 and Office 2010

OUR ORGANISATIONAL STRUCTURE



Ombudsman's overview

In 2009-2010, the Office of the Queensland Ombudsman celebrated its 35th anniversary. During those 35 years, the Office has received and resolved hundreds of thousands of complaints. Many have been resolved by convincing the public agency concerned to revoke or modify the decision complained about or to take some other action.

We also perform another important function of recommending changes to agencies' procedures and practices to improve the quality and fairness of their decision-making.

It is this blend of functions and our independence from executive government that make our Office such an effective catalyst for positive change in the public sector.

Top performance

My Office posted its best performance ever in a number of areas in 2009-2010.

Complaints

Our complaints assessment team received 19,652 complaints and other inquiries, an 11% increase from the previous year. Complaints within our jurisdiction rose by 17%, the third consecutive year in which they have increased. (see p.26)

Complaints outside our jurisdiction also increased but not by as much as in the previous year (1,083 - 18% compared with 1,255 - 19% in 2008-2009). All of these complaints had to be assessed and the complainants referred to the most appropriate agency to handle their problem. (see p.31)

Despite the overall increase in workload, we finalised 8,603 complaints in less than 12 months, 1,237 more than the previous year. Of those:

- almost 70% were finalised within 10 days
- 90% were finalised within 60 days. (see p.28)



Significantly, there were no open complaints more than 12 months old as at 30 June 2010 (for the first time since this statistic was first recorded in 1996). The significance of this performance is demonstrated by the fact that, as at 30 June 2001, there were 1,069 open complaints of which 288 were more than 12 months old. This also shows that the measures we took several years ago to centralise the complaints assessment process and to monitor each stage of the investigation have been highly effective.

As a result of our investigations, we made 193 recommendations to the heads of public sector agencies either to rectify the effect of a defective decision or to help the agency improve its practices and procedures. (see p.32) The case studies throughout this report illustrate the wide range of issues we dealt with and the impact our recommendations can have.

Major investigations and public reports

This year, we continued to investigate and report publicly on administrative problems of a systemic nature. Our reports on two own initiative investigations into the practices and procedures of Queensland Corrective Services were published in the first half of the financial year. They were titled:

- *The Classification and Movement of Prisoners Report—An investigation of Queensland Corrective Services' process for the classification, placement and transfer of prisoners, and*
- *Justice on the Inside—A review of Queensland Corrective Services' management of breaches of discipline by prisoners.*

The reports contain 54 recommendations to make the systems operating within prisons fairer and more accountable. (see pp.60-61)

In October 2009, we published the second edition of *Tips and Traps for Regulators*. The report was first published in 2007 and the latest edition includes new case studies based on our more recent investigations, demonstrating aspects of good regulatory practice and recommending ways public sector regulators can improve their practices. (see p.61)

In February 2010, we published *Complaints Matter—A review of the complaints management systems of Queensland Government agencies*. The report presented the results of an audit we undertook in 2008-2009 to examine state agencies' compliance with the former Public Service Commissioner's directive to agencies (issued on my recommendation) requiring them to implement complaints systems that meet certain minimum standards. (see p.61)

Our investigation revealed that almost all state agencies had implemented complaints systems that satisfactorily complied with the directive and that the remainder would comply once they implemented the recommendations in my report. Altogether, I made more than 300 recommendations to state agencies on ways to improve their complaints systems.

We also undertook a corresponding review of the complaints systems of local councils. Our review found that the legislative requirements for councils to deal with complaints through a properly structured process were being circumvented by councils in the great majority of cases. I made extensive submissions to the Department of Infrastructure and Planning about ways to improve the legislative framework. Most of our recommendations were adopted by government and have resulted in a new legislative scheme for handling complaints which should prove far more effective and accountable.

Training

We continued providing Good Decisions and Complaints Management training to agency officers. (see pp.70-71)

In 2009-2010, we delivered the highest number of sessions since we launched our training programs in July 2005. In that year, we delivered 60 sessions; in 2009-2010 we delivered 120. The number of officers trained annually has also grown considerably, from 1,200 in 2005 to 2,056 state and local government officers in 2009-2010.

Since our training program commenced, more than 8,000 officers have attended sessions.

Feedback received demonstrates that participants value our training programs, with 98% stating the training would help them in their daily work and that they would recommend the training to colleagues.

Attracting participants ranging from senior decision-makers to junior frontline staff, our in-house team of four experienced trainers delivered 61 sessions outside the Brisbane metropolitan area – the highest number of regional training sessions delivered to date. (see p.75)

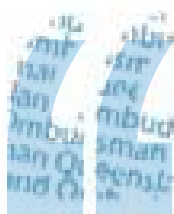
Newsletters to promote good decision-making

We continued to publish our series of *Perspective* newsletters to promote good decision-making, record-keeping and complaints management. They are titled:

- *State Perspective* - containing advice for officers of the state public sector
- *Local Perspective* - containing advice for officers of local councils, and
- *Legal Perspective* - containing advice for public sector lawyers or lawyers in the private sector who have public sector clients.

In April 2010, we published the first edition of *Corrections Perspective*, a newsletter providing advice (often based on our investigations of corrections issues) specifically for staff working in Queensland Corrective Services. The Director-General of the Department of Community Safety agreed to disseminate the newsletter to QCS staff via the department's intranet. (see p.72)

Readership across all our newsletters continues to grow and a number of agencies have included a link to the newsletters on their intranet sites.



Since our
training program
commenced, more
than 8,000 officers
have attended
sessions.



Communication and access

Through our communication activities we try to ensure that all sections of the community know who we are, what we do and have reasonable access to our services regardless of their location or ethnic origin.

In 2009-2010, we continued to monitor levels of awareness of our Office throughout Queensland and to conduct media campaigns in regions where awareness seems to be below average. We conducted media campaigns to promote our Office and its role in the North West and Fitzroy regions. (see p.74)

Members of the public are also continuing to make frequent use of our website to lodge complaints, with 1,025 complaints received via our online complaint form and 1,138 received by email – 25% of all complaints received. There has been a steady increase in the use of this technology since 2005-2006 when only 8% of complaints were made in these ways. (see p.27)

Complaints online

On 13 October 2009, we launched a shared complaints website at www.complaints.qld.gov.au. (see p.76)

Although we managed the project, it was a joint initiative with the Anti-Discrimination Commission Queensland, the Commonwealth Ombudsman, the Commission for Children and Young People and Child Guardian, the Crime and Misconduct Commission and the Health Quality and Complaints Commission.

The website provides information on all of the main complaint agencies operating in Queensland thus enabling people to select the most appropriate agency to respond to their concerns. It therefore makes complaint agencies more accessible to the community and also reduces the number of 'out of jurisdiction' complaints received by our Office and other complaint agencies.

A significant year for accountability in Queensland

During 2009-2010, there were several positive developments in the area of government accountability. These included the commencement, from 1 July 2009, of the new *Right to Information Act 2009* (RTI Act). Its introduction followed a comprehensive review by the government of the previous freedom of information laws. The new legislation, with its strong emphasis on a pro-disclosure approach to government information, creates an access regime that is considerably better than the previous scheme in a number of ways.

Another step forward was the establishment of the Queensland Civil and Administrative Tribunal (QCAT), first recommended by the Electoral and Administrative Review Commission in 1993. QCAT commenced operations on 1 December 2009. It will significantly improve the delivery of civil and administrative justice in Queensland as the *Queensland Civil and Administrative Tribunal Act 2009* amalgamated 23 jurisdictions into one tribunal and provides a single gateway through which the public can seek access to justice.

Other achievements included the broadening of the Integrity Commissioner's role through the new *Integrity Act 2009*, which came into force on 1 January 2010. The Act expands the Commissioner's responsibilities in the integrity area. It also transfers responsibility for the lobbyists' register from the Department of the Premier and Cabinet to the Commissioner, and extends the reach of the register to cover lobbyists engaged in lobbying local government. In addition, the Act prohibits success fees for lobbyists.

I made submissions to a number of government reviews during the year, including the Premier's *Integrity and Accountability in Queensland* green paper. In my submission, I called for changes in a number of areas, including:

- an overhaul of Queensland's whistleblowing legislation (I had made similar submissions to the *Queensland Public Hospitals Commission of Inquiry* in 2005 which, although adopted by the Commissioner in his report, were not acted upon by government);
- rectifying the Ombudsman's lack of jurisdiction to investigate the administrative actions of government-owned corporations (GOCs); and
- introducing legislation to protect apologies even where the apology contains an admission of liability.

I am pleased to note that, in response to my submission about apologies, a Bill was recently introduced into Parliament that proposes to amend the *Civil Liability Act 2003* so as to give the protection I called for.

Regrettably, the Ombudsman's lack of jurisdiction over GOCs has not been rectified although, in response to a corresponding submission from the Crime and Misconduct Commission, the government agreed to give that organisation jurisdiction over GOCs in respect of official misconduct.

I remain of the view that the Ombudsman's lack of jurisdiction is unsatisfactory from both an accountability and integrity perspective, and is out-of-step with the community's expectations regarding independent scrutiny of the government functions performed by GOCs. It is also inconsistent with the position in New South Wales where the Ombudsman has jurisdiction over the equivalent bodies.

In relation to whistleblowing, the Public Interest Disclosure Bill 2010 was recently introduced into Parliament. The Bill achieves some of the reforms I consider necessary in order to achieve best practice in the area of whistleblower protection. However, it fails to implement my key recommendation to give the Ombudsman the role of investigating and monitoring public interest disclosures that do not involve official misconduct (official misconduct cases are monitored by the Crime and Misconduct Commission).

In my view, to ensure the public has confidence in the operation of the scheme, it is essential for the oversight role to be held by an entity independent of executive government. The Ombudsman aptly meets this requirement as an independent officer of Parliament who already has the statutory role of giving people 'a timely, effective, independent and just way' of having the actions of the public sector investigated.

Instead, the Bill provides for a central oversight and monitoring role to be given to the Public Service Commission, an agency of executive government. In that regard, I consider that the opportunity to introduce a whistleblower protection scheme that represents best practice in this area has been missed.

I am also concerned that certain provisions of the Bill have the potential to interfere with the independence of my Office. The Bill gives the Public Service Commission the power to review or monitor the functions of the Ombudsman where the Ombudsman has received a public interest disclosure from an officer of the Ombudsman, or where a public interest disclosure has been referred to the Ombudsman because it concerns the conduct of the Ombudsman's Office or an officer of the Ombudsman. There is a corresponding provision giving the Public Service Commission a similar power in respect of the Crime and Misconduct Commission.

As an officer of Parliament, independent of the executive government, I am strongly opposed to any proposal that the Public Service Commission be given jurisdiction to review and monitor the way in which my Office carries out any of its functions, including its function of dealing with public interest disclosures. I consider that such a proposal is inconsistent with the concept of an independent parliamentary ombudsman and gives rise to the very real risk of undermining public confidence in the impartiality of my Office.

I have already referred to the improvements to Queensland's information access regime made by the RTI Act. One improvement is to the cabinet exemption provision. When I was Information Commissioner, I made several submissions to government regarding the need to amend the cabinet exemption provision in the now repealed *Freedom of Information Act 1992*. My predecessor had also made similar submissions. In my view, the relevant provision was overly broad and exceeded the bounds of what was necessary to protect traditional concepts of collective Ministerial responsibility.

I was therefore pleased to see that the new exemption for cabinet documents in the RTI Act improves public access to government information by limiting the previously overly wide scope. This change was consistent with the government's publicly stated commitment to greater transparency in government and the overriding principle in the RTI Act that public agencies are to give access to as much information as possible.

However, a recent amendment to that Act exempts from disclosure minutes of meetings of Brisbane City Council's Establishment and Coordination Committee (E&CC, also known as Civic Cabinet). In my opinion, this is a retrograde step for public accountability and transparency. I do not consider there is any justification for E&CC minutes to be granted a blanket cabinet exemption under the RTI Act. Existing protections in the RTI Act were sufficient to protect the council's decision-making processes when necessary. Nor do I consider there is any validity in the argument put forward in support of the exemption that E&CC is a local government equivalent of State Cabinet and that it therefore should have the same protections as State Cabinet.

I note that, during the relevant Parliamentary debate, the Minister for Local Government and Aboriginal and Torres Strait Islander Partnerships stated¹ that the RTI exemption 'will only be validating the practice that has been occurring within the E&C Committee for many years'. My investigation of a complaint by a councillor who had been refused access to E&CC minutes led me to the view that, up until the amendment of the RTI Act (as well as other prohibitions on access to council records introduced in the new *City of Brisbane Act 2010*) the council's practice of refusing access to E&CC minutes was wrong and contrary to law. Before giving my final report to council on this matter, I obtained the advice of Senior Counsel who agreed with my view. A full discussion of this case, and the circumstances surrounding the introduction of the new RTI exemption, is on page 55.

I record my concern that my Office and, from my inquiries, other public officials who may have had an interest in commenting upon the proposal to exempt E&CC minutes from disclosure (such as the Information Commissioner and the Integrity Commissioner) were not consulted.

¹ Hansard, 9 June 2010, page 1942



→ Queensland Ombudsman David Bevan after tabling a major public report.

Retrospective

On 16 September 2010, I will complete my ninth year as Queensland Ombudsman. It will also be my final year as I have not sought reappointment for a tenth year, the maximum allowable under the Ombudsman Act. Therefore, as this is my last annual report, I take the opportunity to mention briefly a few of the significant achievements of my Office over the last nine years:

- The Office's first public report on an investigation was published in Parliament in May 2002. The 'Brooke Brennan' report – *An investigation into the adequacy of the actions of certain government agencies in relation to the safety of the late Brooke Brennan, aged three* – was tabled in Parliament on 31 May 2002. The report succeeded in raising public awareness of major deficiencies in the operation of the child protection system in Queensland and led to some significant improvements in the system, including a better process for reviewing child deaths.
- Other public reports included the 'Baby Kate' report – *An investigation into the adequacy of the actions of certain government agencies in relation to the safety, well being and care of the late baby Kate, who died aged 10 weeks*.
- The largest investigation the Office has ever undertaken was the *Workplace Electrocution Project*. The full title of my report, tabled in Parliament in 2005 was, *A report on investigations into the adequacy of the responses of government agencies to nine fatal electrical incidents; and an analysis of the effectiveness of changes made to Queensland's electrical safety framework since those incidents occurred*. The investigation identified the need for substantial improvements in the enforcement of workplace health and safety legislation in Queensland.
- We also commenced an ongoing program of conducting operational audits of government regulators. For example, in June 2008, we published a report titled *The Regulation of Mine Safety in Queensland: A review of the Queensland Mines Inspectorate*. Two of my key recommendations in the report that were implemented by government were:
 - ✎ that a Mine Safety and Health Commissioner be established to advise the Minister on mine safety issues and to monitor and report directly to Parliament on the performance of the Queensland Mines Inspectorate, and
 - ✎ that legislation be amended to protect from reprisals any person who provides information about a mine safety concern to a government agency or to the mine operator itself.
- In 2005, we commenced our extremely popular training program on good decision-making for public sector officers, details of which I have already mentioned.

- Other initiatives I have already mentioned are our series of *Perspective* newsletters and our outreach activities to improve awareness of and access to the Office.
- Finally, the relocation of the Office in March last year provided the opportunity for us to share certain facilities such as training, meeting and interview rooms with four other independent complaint agencies. My Office also provides reception services for three of those agencies. This arrangement provides an appropriate model for other agencies by demonstrating that public resources can be shared by independent agencies without their independence being compromised.

In conclusion

I look back on the Office's achievements during the past nine years with a great deal of personal satisfaction but also with a huge sense of gratitude towards my dedicated staff. In their daily work, they demonstrate their commitment to the Office's core values of fairness, independence and integrity, often while dealing with members of the public who are frustrated, angry and even aggressive because they believe that they have been treated unfairly by some anonymous government official and that no one will listen to them. My officers' experience and professionalism frequently lead to the problem being resolved or, at least, to complainants accepting that an independent, fair-minded person has listened to them and objectively assessed their problems.

I thank my staff from the bottom of my heart for the tremendous loyalty and support they have given me over the past nine years. This report is an enduring testament to their commitment to good government.

I wish my successor all the best and am confident that he or she will find the role as rewarding and interesting as I have. It has been an honour and a privilege to serve as Queensland's fifth Parliamentary Ombudsman at a time when the community has increasing expectations that government will operate in a transparent, efficient and accountable way.

I leave the position knowing that the Office is well-placed to continue carrying out its important role in Queensland's accountability framework of ensuring people are treated fairly in their dealings with government agencies.



David Bevan
Queensland Ombudsman

What we do

EFFICIENT

adjective 1. effective in the use of energy or resources 2. having and using the requisite knowledge, skill, and industry; competent; capable.

The Queensland Ombudsman investigates the actions of Queensland Government agencies, local councils and universities. The majority of investigations arise from complaints received, but we can also start an investigation on our own initiative.

Specifically, the *Ombudsman Act 2001* defines our role in the following terms:

- to give people a fair, independent and timely way of having the decisions or actions of public sector agencies investigated, and
- to assist those agencies to improve their decision-making and administrative practice.

Our independence

The Ombudsman is an Officer of Parliament, which means our Office is independent of government.

This means no person or body can direct:

- how investigations should be conducted
- whether particular complaints should or should not be investigated
- the level of priority given to investigations.

The exception to this is that Parliament or a Parliamentary Committee may refer matters to the Ombudsman for investigation and report.

What we investigate

We can investigate the actions of state government agencies, local councils and universities. If we consider that an agency's action was unlawful, unreasonable, unjust, or otherwise wrong, we can make recommendations to the agency to:

- rectify the effect of the action, or
- improve the agency's administrative practice.

We can also make a recommendation if we think an agency's action is one for which reasons should have been given but were not.

Our jurisdiction

We do not have power to investigate many complaints that come to us, such as complaints about the decisions of:

- Ministers and Cabinet
- courts and tribunals
- private individuals or businesses (for example, insurance or telephone companies)
- the operational actions of police
- Commonwealth or interstate government agencies.

Except in special circumstances, we do not investigate complaints where a complainant:

- has known about the problem for more than 12 months before complaining, or
- has some other right of review that has not been used.

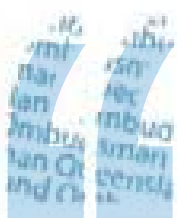
We will generally not investigate a complaint if the complainant has not attempted to resolve the problem with the agency concerned. This is because we believe each agency is responsible, in the first instance, for trying to resolve complaints about its actions and should be given the opportunity to do so.

Furthermore, all agencies are now required to have complaints management systems in place that provide for the internal review of their decisions and actions. Complainants are able to contact my Office again if they remain dissatisfied after the agency's internal review.

Delivering our services

When dealing with us, people can expect we will:

- give fair and independent advice
- conduct investigations in a timely manner
- deal confidentially with information they give us
- give clear explanations about what we can and cannot do
- provide regular updates on the stage their complaint has reached
- give clear reasons for our decisions
- ensure they have reasonable access to our complaint services, regardless of their background and circumstances.



We believe each agency is responsible, in the first instance, for trying to resolve complaints about its actions and should be given the opportunity to do so.



Our strategic direction

In 2009-2010, we revised and implemented our *Strategic Plan 2010-2015*. The plan's four core objectives are to:

1. Promote administrative justice by providing an independent, fair and effective investigative service.
2. Contribute to improving the quality of administrative practice in Queensland public sector agencies.
3. Ensure all sections of the community are aware of and have reasonable access to our services.
4. Promote organisational excellence and a skilled, committed workforce.

The *Strategic Plan 2010-2015* forms the basis of our *Operational Plan 2010-2011*, aligning core strategies to specific activities for the financial year, attributing responsibility to relevant officers, and outlining key performance indicators.

Our strategic challenges

The Queensland Ombudsman's current strategic challenges are:

- devising cost-effective ways of discharging the Ombudsman's role to help public agencies improve administrative practices while continuing to independently investigate complaints about decisions made by those agencies
- liaising with other complaint agencies to avoid duplication of investigative resources
- servicing Queensland's diverse and highly decentralised community
- meeting the expectations of Parliament and the community to deliver services efficiently, effectively and in a timely manner
- the proliferation of public and private complaints agencies, including industry ombudsmen, which creates uncertainty in the community about our Office's role.

Ombudsman Management Group



David Bevan
Ombudsman

David became Queensland's fifth Ombudsman in 2001. Immediately prior to that, he was the Director of the then Criminal Justice Commission's Official Misconduct Division having joined the Commission as head of its complaints section in 1990. From 1983 to 1990, he was an Assistant Parliamentary Counsel in the Office of the Queensland Parliamentary Counsel. Before that, he spent five years as a Crown Prosecutor before becoming a legal adviser within the Queensland Solicitor-General's Office. David holds degrees in Arts and Law and was admitted as a barrister in 1973.



Forbes Smith
Deputy Ombudsman

Forbes joined the Office in 2006 and was formerly the Chief Inspector, Queensland Corrective Services and Director, Misconduct Investigations at the Crime and Misconduct Commission. As well as playing a key role in the Office's management and strategic direction, Forbes is directly responsible for overseeing the Assessment and Resolution Team, which handles all initial complaints, and the two investigative teams – the Local Government and Infrastructure Team and the Community Services and Corrections Team. Forbes holds a Bachelor of Laws and was admitted as a barrister in 1981.



Peter Cantwell
Assistant Ombudsman
*Administrative
Improvement Unit*

Peter joined the Office in 1997 as an Investigator and was appointed as Assistant Ombudsman in 1999. Prior to joining the Office, Peter was a partner in the Brisbane office of a major Australasian law firm and practised in the areas of commercial and administrative law. He is an experienced workplace trainer and mediator and holds a Bachelor of Laws with Honours. Peter was admitted as a solicitor in 1982.



Louise Rosemann
Assistant Ombudsman
*Assessment and
Resolution Team*

Louise was appointed in 2005 and has diverse experience in public sector and community sector management, human resource management, equal opportunity employment, discrimination law, training and development, and administrative law. She has an extensive background in complaints handling and mediation in a variety of settings. Louise holds a Bachelor of Arts and a Master of Business in Employment Relations.



Greg Woodbury
Assistant Ombudsman
*Community Services and
 Corrections Team*

Greg was appointed Assistant Ombudsman, Community Services and Corrections Team in 2004 after having acted in that position since December 2002. He joined the Office as an Investigator in 1999. Greg has more than 20 years legal experience, most of which was as a partner of a Brisbane law firm specialising in corporate law and general litigation. He was admitted as a solicitor in 1979.



Craig Allen
Assistant Ombudsman
*Local Government and
 Infrastructure Team*

Craig joined the Office as a Senior Investigator in 1999 and was appointed Assistant Ombudsman in 2000. He has extensive experience in finance, operations, policy and legislation gained with the Department of Local Government and Planning and the Brisbane City Council. Craig holds a Bachelor of Business from the Queensland University of Technology, with majors in local government and law.



Adeline Yuksel
Manager
*Communication and
 Research Unit*

Adeline joined the Office in 2005 and oversees a team of four officers who have a dual function to improve awareness of the Office's role among all sectors of the community and conduct research into complaint-related issues. She has a Bachelor of Communications and a Graduate Diploma in Marketing with extensive experience in issues management, communication, strategy development and media relations.



Shaun Gordon
Manager
Corporate Services Unit

Shaun began his career in the Queensland public sector in 1986 and managed multiple administrative and policy roles across several agencies in that time. He joined the Office in 2004 and holds a Master of Public Sector Management and a Bachelor of Arts. Shaun manages the Office's administration, finance, human resource and information technology functions.



As a result of our investigations,
we made 193 recommendations to
the heads of public sector agencies
either to rectify the effect of a
defective decision or to help the
agency improve its practices and
procedures.





Our accountability

Complaints management

INTEGRITY

noun 1. soundness of moral principle and character; uprightness; honesty.

The main purpose for which our Office exists is to give people a timely, effective, independent and just way of having their complaints about public agencies investigated.

We achieve this by ensuring our complaints management processes operate fairly and efficiently. This involves using a highly efficient initial assessment process to identify:

- complaints that do not warrant investigation
- complaints that can be dealt with by informal resolution techniques
- complaints that need to be investigated more formally.

Where we form the opinion that a complaint has been substantiated, we generally make recommendations to the head of the agency concerned about ways to rectify the effect of the unfair or incorrect decision or action.

Contact with our Office

Our complaints assessment team received 19,652 complaints and other inquiries, an 11% increase from the previous year. Thirty-eight percent (7,523) of these involved matters we do not have power to investigate and so we referred the people to the appropriate complaint agency.

However, of greater significance in terms of our workload, the number of complaints received grew for the third consecutive year, totalling 8,717 (a 17% increase on 2008-2009).

People also made greater use of our online complaint form on our website, which allows them to work out for themselves whether they should forward their complaint to our Office or to another complaint agency linked electronically to the form. The number of people who used the form for this purpose increased to 2,670 (39% higher than in 2008-2009). We refer to these complaints as online referrals.

 **TABLE 1: All contact with our Office**

Type of contact	06-07	07-08	08-09	09-10	% of total contact
Referral	3,771	6,037	7,799	7,523	38%
Online referral	853	1,387	1,926	2,670	14%
Complaint	7,084	7,172	7,460	8,717	44%
Inquiry	444	661	539	684	3%
Review request*	74	43	32	44	<1%
Public interest disclosure	33	17	15	14	<1%
Total	12,261	15,317	17,771	19,652	100%

* Note – Review requests are made by complainants who disagree with our decisions. These decisions are reviewed by an officer who was not involved in the original decision and is more senior than the original decision-maker.

Note – Amounts shown in this table may not add to the correct sub-totals or totals due to rounding.

The following table provides a breakdown of the channels people use to communicate with us.

TABLE 2: How we received complaints

How we received complaints	07-08	%	08-09	%	09-10	%
Telephone	3,544	49%	3,452	46%	3,855	44%
Mail	1,410	20%	1,470	20%	1,570	18%
Email	732	10%	899	12%	1,138	13%
Online complaint form	649	9%	737	10%	1,025	12%
Prisoner PhoneLink	498	7%	596	8%	672	8%
Fax	153	2%	141	2%	123	1%
Correctional centre interview	115	2%	101	1%	91	1%
In person	44	<1%	64	<1%	115	1%
Ombudsman own initiative	27	<1%	-	-	-	-
Voicemail	-	-	-	-	128	2%
Total	7,172	100%	7,460	100%	8,717	100%

Note – Amounts shown in this table may not add to the correct sub-totals or totals due to rounding.

Despite the growing use of the internet, telephone remains the dominant method of contacting us. In 2009-2010, 3,855 complaints (44%) were made to us by phone, an increase of 12% on 2008-2009. Upgrades to our information and communication technology infrastructure also enabled people to lodge complaints as voicemail messages for the first time (2% of complaints received).

The combined total of complaints received this way (46% or 3,983 complaints), is equivalent to the proportion of complaints received by telephone in 2008-2009, and suggests the immediacy and personal nature of telephone contact is valued by the public.

Written complaints comprised 43% of those received. For the second consecutive year we received more complaints by email and our online complaint form (25%) than by traditional mail (18%). To indicate how trends are changing, in 2005-2006, only 8% of complaints were lodged by email or online complaint form, whereas 23% of complaints were lodged by traditional mail.

The growth in complaints received electronically over the past five years reflects increased levels of internet access in the community.



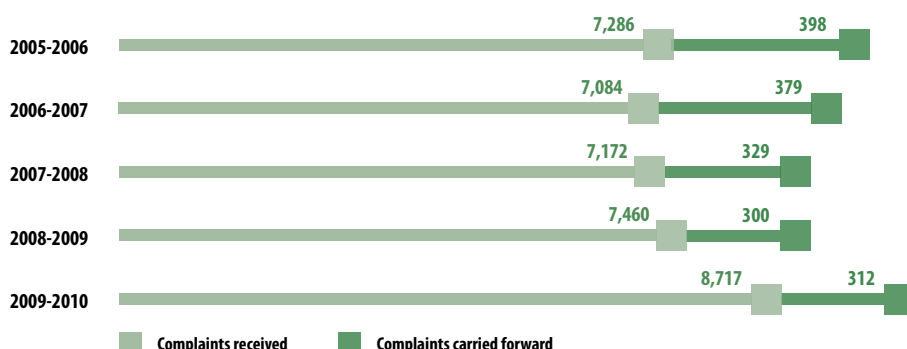
Despite representing only 1% of complaints received, 115 complaints were lodged in person at our premises at 53 Albert Street, Brisbane, an increase of 80%. The increased visibility of our Office, through the shared reception arrangement with four other complaint agencies, may have contributed to this increase.

Complaint trends

There was a 17% increase in complaints received in 2009-2010. At close of business on 30 June 2010, 295 complaints remained open.



FIGURE 1: Complaints received and carried forward



Note – A proportion of the increase in complaints received in 2009-2010 is attributable to changes in our operational procedures arising from enhancements to our case management system. However, these changes were responsible for an increase of only 0.75% in the number of complaints recorded.

→ **TABLE 3: Complaints received for agency types**

	05-06	06-07	07-08	08-09	09-10
State government	4,271	4,137	4,268	4,370	5,099
Local councils	1,961	1,888	1,843	1,979	2,275*
Universities	74	113	130	182	262
Other (police, private, Commonwealth, etc)	965	905	931	929	1,081
Total	7,271	7,084	7,172	7,460	8,717

* Note – includes 19 complaints about South East Queensland water retailers.

Complaints about universities significantly increased for the third year in a row, by 44% to 262. Since 2007-2008, university complaints have increased by 101%. (see p.57) Complaints about state government departments and agencies increased by 17% to 5,099 while complaints about local government increased by 15% to 2,275.

→ **TABLE 4: Complaints finalised**

	05-06	06-07	07-08	08-09	09-10
Complaints finalised	7,305	7,134	7,201	7,448	8,708
Complaints open	379	329	300	312*	295

* Note – changes to our case management system from 1 July 2009 have resulted in a more accurate methodology for calculating the number of complaints brought forward. The recalculated result for 2008-2009 using the new methodology is 286 complaints brought forward compared to 295 brought forward into 2010-2011.

Managing complaints in a timely manner

The proportion of complaints finalised within 10 days increased from 2008-2009 to 2009-2010 (66%:69%), while the total number of complaints finalised increased by 23%. We finalised 8,603 complaints within 12 months, up 17% from 2008-2009 (7,366) and 99% of complaints were closed within 12 months of receipt for the third consecutive year.

→ **FIGURE 2: Timeline for finalisation of complaints**



RESPONDING TO COMPLAINTS

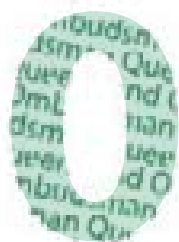
To meet our statutory obligation of providing a timely complaint service, we always try to take some action to resolve complaints within 10 days of receiving them. We call this early intervention. Activities that count as *early intervention* include:

- contacting the complainant to obtain additional information
- requesting information or documents from the agency concerned
- researching legislation, policies or procedures relevant to the complaint.

During the initial assessment process, we filter out the complaints that require further investigation, from those where investigation is unnecessary or unjustifiable or would be premature (for example, because the complainant has not tried to resolve the complaint with the agency concerned).

complaints finalised
within 12 months

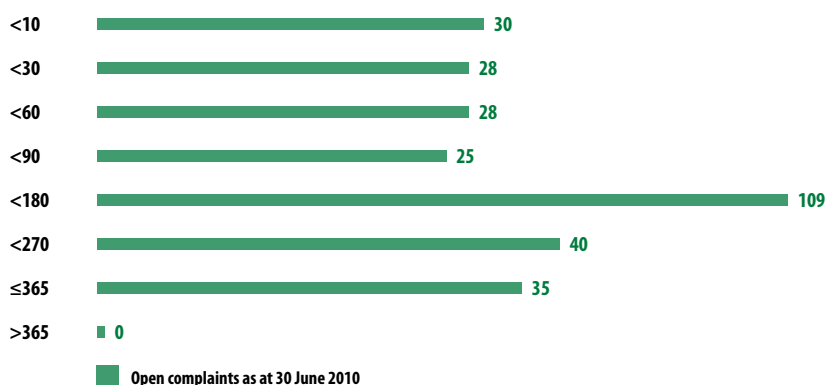
Significantly, there were no open complaints more than 12 months old as at 30 June 2010 (for the first time since this statistic was first recorded in 1996).



**complaints open
over 365 days as at
30 June 2010**



FIGURE 3: Age of open complaints



Complaints finalised

In 2009-2010, we resolved 99% of complaints informally, that is, without conducting formal records of interview or requiring the agency concerned to formally respond in writing to the issues raised.

Because of the significant increase in the number of complaints we received, we expended more resources than in the previous year in conducting more preliminary inquiries, such as research and information gathering, to determine whether investigation of a complaint was justified.

The reduction in the number of informal and standard investigations is directly linked to our increased use of preliminary inquiries to manage cases. Preliminary inquiries often result in an explanation from the agency being complained about or other information that means more time-consuming and resource-intensive investigative strategies are not required.

RESOLVING COMPLAINTS

We use complaint response and closure times as key indicators in measuring and assessing our performance.

A range of factors can affect our response times, including:

- the complexity of the issues raised, and
- the level of research and/or investigation required to properly consider a matter.

In assessing and investigating each complaint we employ the approach most suited to the issues involved.

HANDLING COMPLAINTS

Complaints may be handled in one of the following ways:

- **Assessment:** We finalise the complaint through research and assessment, without contacting the agency concerned
- **Preliminary inquiry:** We finalise the complaint after obtaining basic information from the agency concerned
- **Informal investigation:** We finalise the complaint by making informal inquiries with the agency concerned or elsewhere and/or by negotiating with the parties involved
- **Standard investigation:** We finalise the complaint by conducting formal interviews with agency officers or other persons or seek formal written responses from the agency
- **Major investigation:** We expend significant time and resources on investigating systemic maladministration.



TABLE 5: How we managed complaints

Case management approach	06-07	%	07-08	%	08-09	%	09-10	%
Assessment	5,109	72%	5,440	75%	5,673	76%	6,842	78%
Preliminary inquiry	302	4%	209	3%	172	2%	421	5%
Informal investigation	1,692	24%	1,506	21%	1,529	21%	1,377	16%
Standard investigation	21	<1%	36	<1%	73	1%	65	<1%
Major investigation	10	<1%	10	<1%	1	<1%	3	<1%
Total	7,134	100%	7,201	100%	7,448	100%	8,708	100%

Note – Amounts shown in this table may not add to the correct sub-totals or totals due to rounding.

Complaints not investigated

Like all publicly funded bodies our funds are finite and therefore we have to give priority to investigating complaints where there is a reasonable likelihood that we can achieve some worthwhile outcome for the complainant, the broader community or the public sector.

We decline a large number of complaints following assessment or preliminary inquiries. In addition, people sometimes withdraw their own complaints for various reasons.

 **TABLE 6: Outcome of complaints finalised**

	07-08	%	08-09	%	09-10	%
Declined after assessment	5,256	73%	5,502	74%	6,627	76%
Declined after preliminary inquiry	211	3%	170	2%	376	4%
Sub-total - complaints declined	5,467	76%	5,672	76%	7,003	80%
Withdrawn by complainant before investigation commenced	81	1%	122	2%	106	1%
Withdrawn by complainant during investigation	13	<1%	11	<1%	12	<1%
Sub-total - complaints withdrawn	94	1%	133	2%	118	1%
Investigation discontinued	478	7%	488	7%	327	4%
Investigation completed	1,162	16%	1,155	16%	1,260	14.5%
Total	7,201	100%	7,448	100%	8,708	100%

Note – Amounts shown in this table may not add to the correct sub-totals or totals due to rounding.

The significant increase in the number of complaints declined is the direct result of the increase in complaints received. This resulted in:

- an increase of 20% in assessments completed
- an increase of 121% in preliminary inquiries undertaken.

In 2009-2010, 118 complaints were withdrawn (2008-2009: 133). Complainants decide to withdraw complaints for any number of reasons, for example, because after lodging their complaint they receive a satisfactory response from the agency concerned, or because as a result of changes to personal circumstances they no longer wish to pursue the matter.

We discontinued our investigation of 327 complaints (2008-2009: 478). Our reasons for discontinuing an investigation included:

- we identified that the complainant had a right of review or appeal
- the agency agreed to review the administrative action or decision that led to the complaint
- our initial investigation indicated that further investigation was unnecessary or unjustifiable.

The significant increase in the number of complaints declined is the direct result of the increase in complaints received.

Of the complaints we declined to investigate, 52% were declined because the complainants had not tried to resolve their complaints with the agencies concerned (49% in 2008-2009). The significant increase in complaints dealt with in this way is attributable to the overall increase of 17% in the complaints we received.

We advise complainants to contact the agency they have complained about if:

- the complainant has not raised the complaint with the agency concerned and given it an adequate opportunity to respond to the matter, or
- the agency has its own formal internal review process which the complainant has not yet pursued.

The reasoning behind our practice of referring complainants to agencies is that we believe that agencies should take primary responsibility for addressing people's complaints and should be given an opportunity to do so. Furthermore, both state and local government agencies are required to have complaints systems in place for dealing appropriately with complaints. (see p.68)

We invite these complainants to contact us again if they remain dissatisfied after the agency has considered their complaint. However, if a complainant is disadvantaged by language, literacy, age, disability or incarceration, we may assist them by referring their complaint to the agency and seeking advice on the outcome.

While the proportion of complaints outside our jurisdiction declined slightly (2008-2009: 19%, 2009-2010: 18%), the actual number of complaints increased by 16%. This increase is consistent with the overall increase in the number of complaints we received.

We declined 144 complaints (2%) on the basis that another agency had the specialist jurisdiction to handle the complaint, compared to 103 (also 2%) in 2008-2009. Typically, these included complaints that were within the jurisdiction of the Crime and Misconduct Commission, the Commission for Children and Young People and Child Guardian, or the Health Quality and Complaints Commission. We provide complainants with contact details for these agencies, and in many cases directly refer their complaint to the other agency on their behalf. If we have jurisdiction over the decisions of the other complaint agency, we will advise the complainant to contact us again if they are dissatisfied with the other agency's response.

We also declined 551 complaints where the complainant had not allowed the agency a reasonable period of time to make and communicate their decision (2008-2009: 489). In some cases, we made inquiries with the agency about the progress of the matter and conveyed this information to the complainant.

The *Ombudsman Act 2001* also allows us to decline a complaint if the complainant:

- has known about the problem for more than 12 months before contacting us (105 complaints in 2009-2010), or
- does not have sufficient direct interest in the case (157 complaints in 2009-2010).

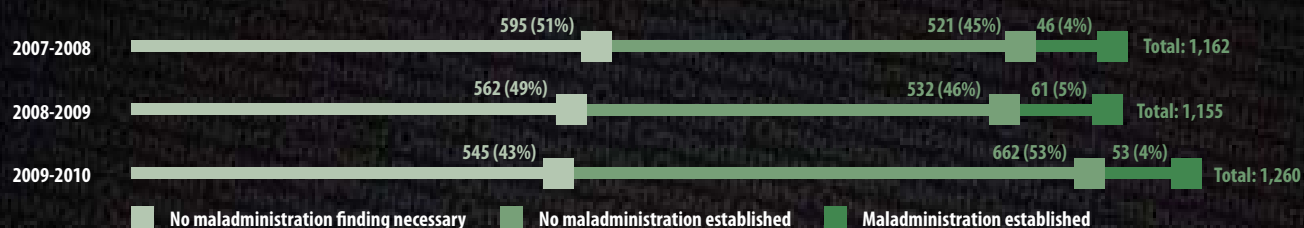
 **TABLE 7: Why we declined complaints**

Why we declined complaints	07-08	%	08-09	%	09-10	%
Referred for internal review by agency	2,684	49%	2,802	49%	3,637	52%
Outside jurisdiction	983	18%	1,083	19%	1,255	18%
Await outcome of current decision process	545	10%	489	9%	551	8%
Complaint to be put in writing	276	5%	344	6%	466	7%
Investigation unnecessary or unjustifiable	381	7%	336	6%	336	5%
Appeal right should be exhausted	282	5%	333	6%	318	4%
Other complaints entity has/will investigate	115	2%	103	2%	144	2%
No sufficient direct interest	92	2%	80	1%	157	2%
Out of time	78	1%	72	1%	105	2%
Frivolous, vexatious or not made in good faith	8	<1%	14	<1%	20	<1%
Appeal right exhausted & further investigation unnecessary	20	<1%	13	<1%	9	<1%
Trivial	3	<1%	3	<1%	5	<1%
Total	5,467	100%	5,672	100%	7,003	100%

Note – Amounts shown in this table may not add to the correct sub-totals or totals due to rounding.



FIGURE 4: Investigation outcomes



Outcomes of complaints investigated

We completed 1,260 investigations in 2009-2010, which is an increase of 9% compared to 2008-2009 (1,155).

Of the complaints investigated, we established some sort of wrongdoing (maladministration) on 53 occasions.

In 545 cases, our intervention led to a suitable outcome being achieved, which meant that we did not have to consider whether the agency's decision or action amounted to maladministration (2008-2009: 562). In some of these cases, the agency agreed to address or partly address the complainant's concerns. In other cases, we were able to obtain information from the agency that satisfactorily explained its decision and then communicated that information to the complainant.

When maladministration was identified, the most common finding was that the decision was unreasonable or unjust (42% of identified reasons). Even where the decision or action of the agency is lawful, we also consider whether the effect of that decision or action was reasonable in all the circumstances. Often, decision-makers simply follow the agency's policy or practice and fail to exercise the discretion they have to ensure that the impact of their decisions does not unfairly affect the rights and interests of the complainant.

Recommendations to benefit individuals and the community

We made 193 recommendations to agencies in 2009-2010 (2008-2009: 184).

Of the 193 recommendations, 71 were made to local councils, 56 were made to state government agencies, 46 to Queensland Corrective Services and 20 to universities. Most recommendations were designed to achieve improvements in agencies' systems and processes (163) with the aim of reducing the likelihood of similar complaints arising.



TABLE 8: Types of administrative error established

	07-08	08-09	09-10
Contrary to law	9	7	15
Unreasonable or unjust	18	36	22
Improperly discriminatory	0	1	0
Irrelevant grounds or considerations	4	4	2
Reasons not given/inadequate	4	7	5
Based on a mistake of law or fact	6	4	0
Wrong	5	2	9
Total	46	61	53



TABLE 9: Types of recommendations made to agencies based on investigations

Recommendation type	07-08	%	08-09	%	09-10	%
Direct benefit	22	12%	39	20%	30	16%
Systemic	161	88%	145	80%	163	84%
Total	183	100%	184	100%	193	100%

Note – In 2009-2010, 70 of the 193 recommendations arose from own initiative investigations (39 in 2008-2009).

Our recommendations addressed important administrative areas such as:

- record-keeping
- communication with persons affected by agency decisions
- complaints management
- natural justice.

We made 30 recommendations (2008-2009:39) to agencies that directly benefited complainants, examples of which are provided in the case studies in this report.



**recommendations
made to agencies
during 2009-2010**

TABLE 10: Types of recommendations made to agencies

	07-08	%	08-09	%	09-10	%
Local councils						
Direct benefit	8	4%	19	9%	23	12%
Systemic	55	30%	58	32%	48	25%
	63	34%	77	41%	71	37%
State government						
Direct benefit	13	7%	17	9%	5	3%
Systemic	102	56%	63	34%	51	26%
	115	63%	80	43%	56	29%
Correctional services						
Direct benefit	0	0%	1	<1%	1	<1%
Systemic	3	2%	16	9%	45	23%
	3	2%	17	10%	46	23%
Universities						
Direct benefit	1	<1%	2	1%	1	<1%
Systemic	1	<1%	8	4%	19	10%
	2	1%	10	5%	20	10%
Total	183	100%	184	100%	193	100%

Note – Amounts shown in this table may not add to the correct sub-totals or totals due to rounding.

Response to recommendations

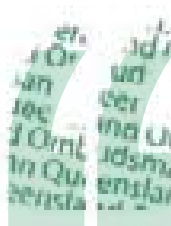
While we cannot direct the heads of agencies to implement our recommendations, they rarely refuse to do so. If they refuse, the Ombudsman can require them to provide reasons and can give a report to the relevant Minister, the Premier or Parliament if not satisfied with the reasons.

We achieved 100% acceptance of our recommendations to which a response had been received by 30 June 2010. In respect of 12 recommendations, a response was pending at the end of the financial year.

TABLE 11: Response to recommendations

	07-08	%	08-09	%	09-10	%
Accepted	173	95%	154	84%	181	94%
Conditional acceptance	9	5%	4	2%	-	-
Not accepted	1	<1%	3	2%	0	0%
Pending response	0	0%	23	12%	12	6%
Total	183	100%	184	100%	193	100%

Note – Amounts shown in this table may not add to the correct sub-totals or totals due to rounding.



We achieved 100% acceptance of our recommendations to which a response had been received by 30 June 2010.



CASE STUDIES

INFORMAL RESOLUTION

CASE STUDY 1

Infringement notices for non-payment of tolls

BACKGROUND

A woman complained she had received infringement notices from the Department of Transport and Main Roads (DTMR). The infringement notices related to unpaid tolls incurred while travelling on toll roads operated by Queensland Motorways Limited (QML). DTMR is responsible for pursuing unpaid tolls.

The complainant advised us she had an account with QML, and that her e-toll transponder was in the car when she drove through the toll points. She had signed up for automatic top-up of her account from her credit card but, as her credit card had expired and a new one had been issued, the automatic top-up was no longer functioning. The complainant subsequently received four notices of demand for non-payment of tolls. She contacted QML in February 2009 to pay the notices of demand and to update her credit card details.

In August 2009, the complainant received two infringement notices from DTMR for a total amount of nearly \$280. The infringement notices related to travel on toll roads in December 2008, but were not connected to the four notices of demand she had previously received and paid. The complainant advised us that she thought the matter had been rectified when she contacted QML in February 2009 to update her credit card details.

INVESTIGATION

We contacted DTMR, who liaised with QML to provide a response to us. DTMR indicated that the complainant's account was in debit from November 2008 to February 2009, until the complainant contacted QML and manually topped up her account.

At the time of contact, she quoted the reference numbers for the four notices of demand she had received. The complainant did not refer to the other two notices of demand as she had not received them as at that time. The officer she spoke with at QML did not inform her of those two notices of demand, which subsequently led to the two infringement notices being issued.

OUTCOME

As a result of our inquiries, DTMR's Legal and Prosecution Unit considered the matter and advised that QML should have informed the complainant of the other two notices of demand when she contacted them in February 2009. DTMR decided to waive the infringement notices on the basis that the complainant had attempted to comply with the notices of demand prior to the issue of the infringement notices.

CASE STUDY 2

Conditions imposed by a moratorium

BACKGROUND

We received a complaint from a land owner about the actions of the Department of Environment and Resource Management (the department) concerning his application to undertake maintenance work (removing silt) on a dam on his property. A moratorium had been imposed preventing the taking of overland water flows in the area in which his property was located.

The moratorium allowed works that would increase the capacity of a dam to proceed, provided notification was given to the department by 19 March 2010, and the works were started by 12 April 2010 and completed by 19 July 2010. There was also provision for works started prior to the moratorium to be completed. The land owner submitted a 'started works' notice to the department by the due date. The department advised him that works did not fall within the criteria for works that required notification to be given to the department under the moratorium, because the works would not increase the capacity of his dam.

However, on 12 April 2010, the land owner received a further letter from the department advising him that his planned works did in fact require notification to be given to the department, and that he would have to start work on the project by 12 April 2010. The land owner's contractor had not commenced the works at that time. A subsequent letter from the department advised the land owner that he had missed the deadline for starting the works and if he now completed any of the works he could be fined up to \$166,500.

While the department's internal review decision acknowledged its first advice was wrong, it was decided that the land owner was still not able to go ahead with his

planned works because he had missed the start deadline.

INVESTIGATION

After considering the submission made by the land owner and the conditions of the moratorium, we formed the view that the department's actions may have been unreasonable and frustrated the land owner's ability to comply with the conditions of the moratorium. We referred the complaint to the Director-General of the department for his urgent investigation, and requested that he consider any discretion he had to waive the deadline.

OUTCOME

Following the department's further review of the complaint, it advised us that, due to the conflicting advice it had given to the land owner about whether works were 'started' or not, and advice given in error about the date by which works were to be 'physically' started, it had revoked its internal review decision and the land owner could carry out his planned works.

CASE STUDIES

INFORMAL RESOLUTION

CASE STUDY 3

Requirement for photo ID for application for housing

BACKGROUND

We received a complaint from an elderly woman during a visit to Roma House, which provides short-term accommodation to people who are homeless. The woman was concerned about advice she had received from the Department of Communities (Housing and Homelessness Services) that her application for social housing could not be processed until she provided photo identification.

She explained that she had never held a drivers licence and had no other photo ID and, therefore, would need to apply for an 18+ card in order to comply with the department's requirements. However, to do so, she would need her birth certificate. This was complicated because she had been known by her stepfather's surname since she was eight years old, although her name had never been formally changed by deed poll.

All the documents that established her identity – for example, pension card and Centrelink records, Medicare Card, bank card, marriage certificate and divorce papers – were in her stepfather's surname. Therefore, it would likely take three to six months to change her name by deed poll so that her birth certificate was in the same name as her other documentation, but she would only be able to stay at Roma House for three months. She also explained that she had suffered a heart attack just after being temporarily accommodated at Roma House and needed to be close to the hospital for ongoing medical treatment.

INVESTIGATION

We discussed the woman's case with the department and received advice that if an applicant is unable to provide photo identification and the delegated officer is satisfied that there are acceptable reasons for this, the officer has the discretion to accept two forms of secondary identification. We established that the documents the woman had would meet the department's requirements. We also confirmed arrangements for the woman to attend a meeting with the department to progress her application.

OUTCOME

We advised the woman her application may be accepted if she supplied secondary identification. She was encouraged to supply the necessary documents when she attended a meeting with the department the following day.

It was subsequently confirmed that the woman had been placed on the waiting list for social housing.

CASE STUDY 4

SPER debt incurred despite payment of fine within time to council

BACKGROUND

The owner of a dog received infringement notices relating to the animal. He paid the fines by the due date, using BPay rather than by the payment methods outlined on the infringement notices. The Tablelands Regional Council assumed the BPay deposit was intended by the complainant to be used to meet his future rates liability and took it into account in calculating the amount owing for rates in the subsequent rating period. As the council believed the fines had not been paid, the infringements were referred to the State Penalties Enforcement Registry (SPER) for collection. In doing so the council incurred SPER registration fees.

The amount paid by BPay could not be re-allocated to the infringements as it had been applied by the council towards his rates liability and the rates notice sent to him had been for the balance, which he had paid.

INVESTIGATION

The complainant did not become aware that the fines were unpaid until he was notified by SPER. The council refused to withdraw the infringements from SPER because it had already paid SPER the required registration fees, and sought to recoup those charges as well as the fines.

When we contacted the council, we were informed that it only had one BPay facility in place at the time the complainant made the initial payment and that this facility was exclusively for payment of rates.

OUTCOME

After our negotiations with SPER, council and the complainant, the following outcome was reached:

- the council agreed to lodge a withdrawal of the infringement referral with SPER
- the complainant agreed to pay the actual fine amount to SPER
- SPER agreed to transfer that amount to the council, together with the registration fees council had already paid.

Council subsequently informed this Office that, given the community preference for using BPay, it was instituting a second BPay arrangement for the public to use when making non-rates related payments to council.

CASE STUDIES

INFORMAL RESOLUTION

CASE STUDY 5

Pension concession not received for nine years

BACKGROUND

We received a complaint from a pensioner couple who realised that for nine years they had only been receiving a part-pensioner rate remission despite having received a full pension since 2001. The complainants had in fact received a part pension for four months in 2001 between selling their previous home and purchasing their current property. The Redland City Council declined the couple's request to have the full pensioner rebate backdated to the date of purchase of their current property.

INVESTIGATION

We contacted the council and requested that it investigate and review the couple's application for reimbursement of the pensioner concession back to 2001.

OUTCOME

The Chief Executive Officer of the council subsequently responded to the couple advising that following a review of their rate account, council had applied the difference between the full pensioner rebate and the part pensioner concession to their rate account and back-dated it to 2001. The Chief Executive Officer also provided a schedule explaining the adjustment calculations. A credit of nearly \$1,000 was applied to the couple's rate account and they were given the option of the credit being offset against subsequent rate notices or a refund.

CASE STUDY 6

Refusal of request for insulation

BACKGROUND

A complaint was received from a quadriplegic tenant of the Department of Communities (Housing and Homelessness Services), who had lodged a request for roof insulation to be installed in the accommodation provided to him by the department. He had been informed by the department that he was not entitled to have insulation installed.

The tenant's condition meant that he was unable to cope with the high temperatures experienced throughout summer and, being a disability pensioner, he was unable to afford alternative cooling sources.

Due to his disability the complainant was unable to write to the department and sought our assistance in taking up his concerns.

INVESTIGATION

We contacted an officer of the department and discussed the issue. As a result, the department agreed to review its decision.

OUTCOME

On reviewing the decision the department noted that when the initial request had been assessed, the decision-maker had overlooked the relevant policy even though the tenant had provided sufficient medical evidence to support his request.

The department subsequently approved the request in line with the policy and requested QBuild to install the insulation as a matter of urgency.

We contacted the tenant to advise him of the outcome and he indicated he had already received a telephone call from the department to advise that insulation would be installed. He was very appreciative of our assistance in obtaining a positive outcome.

CASE STUDIES

INFORMAL RESOLUTION

CASE STUDY 7

Failure to allow rates discount

BACKGROUND

A complaint was received from a rate payer who owned a number of properties within the Logan City Council area. The rate payer complained that the council had not allowed him the rates discount on his investment properties.

The rate payer had notified the council that he had changed his address but the council had not sent the rates notices for his investment properties to his new address, as it had recorded the change of address only in relation to his new residential address. When the rate payer eventually received rates reminder notices, the due date for payment had passed and, therefore, the council did not allow the rates discount.

The rate payer complained that the council made an error by not recording his new address for the purpose of sending future rates notices for all his properties. He considered that the address on all his properties should have been updated at the same time.

He made an application to the council that he be allowed the discount on rates after the discount date but it refused his application.

INVESTIGATION

We requested copies of correspondence and documentation and made inquiries with the council. The council considered that the rate payer's situation did not fulfil the requirements of its procedure under which a rates discount would be allowed when payment was made after the due date. We reviewed the procedure which provided for a number of circumstances in which discounts are allowed, including if rates notices have been addressed incorrectly.

The council advised that the rate payer had not specifically mentioned his other properties when he advised his change of address, and that the council could not be expected to assume the address should be changed on all properties. The council provided a copy of the notification of change of address form which the council officer had completed but no record had been made of the details of the conversation.

The council acknowledged it had recently updated its notification of change of address form to include a new field, directing council officers to specifically ask rate payers whether they have additional properties in the council area.

OUTCOME

We commended council on implementing the new procedure. We recommended council grant the complainant the discount on his investment properties as:

- he had contacted the council to notify his change of address,
- he reasonably believed the new address would have been recorded against all of his properties, and
- council had since amended its procedure to ensure similar situations do not arise.

In response to our recommendation the council allowed the rates discounts on the investment properties.

CASE STUDIES

INFORMAL RESOLUTION

CASE STUDY 8

Damage to property

BACKGROUND

Rural land owners made a complaint to us about the actions of the Lower Herbert Water Management Authority (the authority) in carrying out maintenance on a drain, a section of which is located on their property.

The land owners complained that the authority did not notify them of its intention to carry out works on their property. Additionally, the complainants considered works they had already undertaken on their property around the drain to stabilise erosion and beautify the area had been destroyed by the authority's work.

The complainants sought \$2,000 compensation for the damage they considered had been caused by the authority's work.

INVESTIGATION

After reviewing the submissions made by the land owners, we made inquiries with the authority and requested copies of correspondence and other documentation.

We also had a meeting with the chairperson and two delegates of the authority to discuss the land owners' concerns. We found the authority had acted within its power in entering the land and carrying out works on and around its drain.

However, we also found the authority's officers had not made and retained adequate records of their actions and, consequently, the authority could not specify which legislative powers its officers had acted under in undertaking those actions.

OUTCOME

We wrote to the authority to outline our concerns and made several recommendations for improvements to its policies and record-keeping, including:

- that an internal review of practices by the authority already underway include a review of record-keeping practices
- that the authority review its obligations under the *Water Supply (Safety and Reliability) Act 2008* and the *Acquisition of Land Act 1967* to give notice of entry and review the practices for recording notification of entry and storing that information
- that the authority develop procedures for recording notification of entry and storing that information.

In response to our recommendations, the authority undertook a review of its practices and developed a grievance policy as well as additional procedures for record-keeping and for notifying land owners.

CASE STUDIES

INFORMAL RESOLUTION

CASE STUDY 9

Delay in decision

BACKGROUND

A complaint was received from a pool owner dissatisfied with the Building and Development Tribunal Registry (the registry). The pool owner had lodged an application for a variation to the building assessment provisions affecting his pool fence, and had not received a decision within the 20 day timeframe stipulated under the relevant legislation.

He did not receive a decision from the registry for more than five months and contacted us after having received no response to his subsequent complaint to the registry about the delay.

He sought a refund from the registry of the \$408 application fee lodged with his application for variation.

INVESTIGATION

We reviewed the relevant legislative provisions and confirmed a decision on the application for variation to the building assessment provisions was required within 20 business days.

However, we also noted the complaint did not appear to have been reviewed by the Department of Infrastructure and Planning, within which the registry is located, in accordance with the department's complaints policy. We referred the matter to the Director-General of the department and asked him to review it and respond directly to the complainant.

In referring the matter back to the department, we suggested that in view of the circumstances of the complaint, including the fact that the registry had not met the statutory timeframe in dealing with the application, the department should consider refunding the application fee to the complainant.

OUTCOME

After further consultation, the Director-General approved that an ex gratia payment of \$408 be made to the complainant. We also received advice from the registry that it would undertake a review of its administrative procedures to ensure that such a delay would not occur again.

CASE STUDY 10

Refund for improper parking infringement

BACKGROUND

The complainant received a penalty infringement notice (PIN) for parking on a section of road marked with a continuous yellow kerb line. Kerb lines of this nature constitute an official traffic sign under traffic legislation.

The complainant sought a review of the PIN from the Brisbane City Council Disputes Commissioner on the basis she had parked her vehicle in accordance with a parking sign that allowed one hour parking.

The commissioner refused to waive the PIN as a site inspection failed to support the complainant's contention about the existence of the sign.

INVESTIGATION

The complainant provided us with a photograph taken when she returned to her vehicle to find the PIN attached to the windscreen. The photograph clearly depicted the yellow kerb line and the one hour parking sign, both apparently applying to the same length of road where the vehicle was parked.

We conducted our own site inspection and noted that the base of a post was embedded in the footpath at the location of the sign shown on the photograph, indicating that the sign had been removed after the photo had been taken.

We asked the commissioner to review the original decision in light of the photographic evidence showing contradictory signage.

OUTCOME

The commissioner's inquiries established that the council's officers had painted the yellow kerb line in the morning before the PIN was issued, and that the one hour parking sign had been removed two days later.

The commissioner waived the PIN and apologised to the complainant for any inconvenience.

State government

Machinery of Government (MoG) changes, implemented on 26 March 2009 resulted in significant structural changes to a number of departments and other public agencies.

State government departments

These changes make meaningful comparison of year-on-year data problematic. However, where business units and service areas have remained intact, we have presented comparisons for the purpose of identifying trends in complaints.

For example, complaints against Child Safety Services, now a service area in the Department of Communities, increased by 14% in 2009-2010, in contrast to a 27% decrease in 2008-2009. Housing and Homelessness Services, another service area in the same department, experienced a 12% increase in complaints in 2009-2010, compared to a 41% increase in 2008-2009.

Complaints against Queensland Health increased by 50% in 2009-2010, following a 26% increase the previous year. The transition of responsibility for the delivery of offender health services from Queensland Corrective Services to Queensland Health in August 2008 continued to be the cause of a significant increase in complaints against the organisation.

Public agencies

We experienced an 86% increase in complaints about Legal Aid Queensland, compared to a 4% increase in 2008-2009. The majority of complaints (80 out of 138) were about the refusal to grant legal aid. This may be due to the introduction of new funding guidelines which commenced on 1 January 2010. The guidelines placed further limits on the circumstances in which aid is approved. Legal Aid Queensland advised that the changes to the guidelines were necessary because of a reduction in legal aid funding due largely to the global financial crisis.

Complaints made about the Health Quality and Complaints Commission (HQCC) increased by 47% compared to a 1% decrease in 2008-2009. Complaint handling, particularly the assessment and investigation of complaints, continues to generate the highest number of complaints.



TABLE 12: Complaints received about public agencies

	08-09	09-10
Public Trustee of Queensland	158	161
Legal Aid Queensland	74	138
WorkCover	91	104
Health Quality and Complaints Commission	55	81
Legal Services Commission	39	38
Adult Guardian	29	33
Q-COMP	14	22
Commission for Children and Young People and Child Guardian	31	20
Anti-Discrimination Commission Queensland	16	11
Crime and Misconduct Commission	6	5
Office of the Information Commissioner	3	2
Total	516	615



TABLE 13: Complaints received about government departments

		08-09	09-10
Department of Communities	Child Safety Services	402	458
	Disability and Community Care Services		45
	Housing and Homelessness Services	389	437
	Other business units and service areas		106
			1,046
Department of Community Safety	Emergency Management Queensland		42
	Queensland Corrective Services ¹	832	953
	Queensland Parole Board	223	190
			1,185
Department of Education and Training	Education Queensland	165	232
	TAFE Queensland		44
	Other business units and service areas		17
			293
Department of Employment, Economic Development and Innovation	Resources, Energy and Manufacturing		26
	Office of Fair Trading		78
	Office of Liquor, Gaming and Racing		8
	Primary Industries		40
	Other business units and service areas		16
			168
Department of Environment and Resource Management	Natural Resources and Water		123
	Other business units and service areas		70
			193
Queensland Health²		260	391
Department of Infrastructure and Planning	Infrastructure and Land		30
	Office of Local Government		4
	Other business units and service areas		1
			35
Department of Justice and Attorney-General	Fair and Safe Work		29
	Queensland Civil and Administrative Tribunal		30
	State Penalties Enforcement Registry (SPER)		78
	Supreme, District and Magistrates Courts		53
	Other business units and service areas		83
			273
Queensland Police Service			229
Department of the Premier and Cabinet	Arts Queensland		6
	Premier and Cabinet		23
			29
Department of Public Works	QBuild		7
	Other business units and service areas		133
			140
Department of Transport and Main Roads³	Main Roads		162
	Transport	329	352
			514
Queensland Treasury	Government Superannuation Office		8
	Office of State Revenue		68
	Treasury		2
	Other business units and service areas		3
			81
Total			4,577

Note 1 – Complaints data about Queensland Corrective Services were previously reported on separately because of our ongoing corrections program. This data has been included in this table to be consistent with the MoG changes.

Note 2 – See appendix 7 for breakdown of Queensland Health business units and service areas.

Note 3 – Includes complaints about Queensland Motorways Limited.

CASE STUDIES

STATE GOVERNMENT

CASE STUDY 11

Policy given precedence over legislation

BACKGROUND

The complainant held two non-competitive leases over land surrounded by national park and only accessible by sea. In 1998, he applied to the then Department of Lands to convert the leases to freehold, in accordance with a legislative scheme under the *Land Act 1994*. In the event of a successful application, the purchase price would have been equal to the unimproved value of the land as at 31 December 1980 (\$580).

However, his application was refused on the basis that departmental policy required the land to have dedicated road access.

Around the same time, a nearby lessee (a company) also applied to convert their lease to freehold, but their application was refused because of the lack of dedicated road access. The subject land was also surrounded by national park and only accessible by sea.

The nearby lessee sought a review of the decision under the *Judicial Review Act 1991*, and the department obtained legal advice. The application was then considered afresh by a new decision-maker who approved the application, subject to certain conditions. The purchase price was set at the unimproved value of the land as at 31 December 1980 (\$1,500).

In 2002, the complainant applied again to the department to convert the leases to freehold. In 2009, the Department of Environment and Resource Management (DERM) offered to convert the land to freehold for \$200,000 (plus survey costs) based on the valuation of the land as at 2002 (the year in which the complainant made his application).

The complainant alleged the 1998 decision refusing to grant him freehold title to the leasehold properties was unreasonable and discriminatory given that the other lessee's application had been approved. He also argued that the sale price was discriminatory having regard to the sale price of the other lease.

INVESTIGATION

There was evidence that the complainant's 1998 application to convert his leases to freehold was rejected because of the department's strict application of its policy not to approve the conversion to freehold of leases which did not have dedicated road access.

Policy must not be inflexibly applied in decision-making. A decision-maker must have regard to, and evaluate the circumstances and merits of, the particular case, as well as the relevant statutes and other law. Therefore, a policy's application should not prevent proper consideration of a matter that may require a different outcome to the policy.

In view of the decision-maker's decision to refuse the complainant's application primarily on the basis that his leases did not have dedicated road access, we concluded that policy was wrongly given precedence over the legislation and the merits of the application.

We also found that:

- given the similarities between the complainant's application and that of the other lessee the department's failure to revoke the 1998 decision refusing to grant freehold title to the complainant and reconsider the application on its merits was unreasonable,
- had the decision been revoked it is likely that the complainant's application, if considered afresh, would also have been approved, and
- the department's decision to offer to convert the leases to freehold title on the basis of their unimproved value in 2002 was unreasonable.

OUTCOME

Where an agency's maladministration has resulted in some detriment to a person, we will usually make recommendations to the agency that action be taken to rectify the effects of the maladministration.

In this case, as a consequence of the department's defective administrative actions the complainant would have suffered a substantial financial loss had he accepted the department's offer. His position can be contrasted with that of the other lessee.

Consequently, we recommended the department ensure that the net cost to the complainant in purchasing the freehold title does not exceed the purchase price calculated at the 1980 values.

The Director-General agreed with our recommendation and offered freehold title to the complainant based on the purchase price that would have been calculated and offered if the 1998 application remained active. The Director-General also decided that the department will meet the survey costs, refund around \$11,000 in rent which was paid based on the higher valuation, and review departmental procedures to ensure the maladministration identified in this case does not recur.

POSTSCRIPT

The complainant phoned to thank us and to say that they were '*overjoyed by the outcome*,' and that the department had acted swiftly on our recommendations.

CASE STUDIES

STATE GOVERNMENT

CASE STUDY 12

Overseas beneficiary not disadvantaged

BACKGROUND

The complainant, an Australian citizen who was living and working in the United Kingdom, was a beneficiary of the estate of his uncle who died without leaving a will.

In November 2008, the Public Trustee made an interim distribution of the estate to the complainant of AUD \$20,000, in the form of a bank draft for £8,324.00, without first obtaining his instructions concerning the currency in which he wanted the payment made and the bank account into which the payment was to be deposited.

At the time the payment was made, the Public Trustee's policy specified a method for payment to an overseas beneficiary but also stated it was essential to ascertain the beneficiary's preference as to how the payment be made.

The complainant requested the Public Trustee to pay the distribution in Australian dollars. The Public Trustee was willing to cancel the bank draft but decided the complainant would have to bear the loss that would have resulted from conversion of the amount paid in English pounds to Australian dollars as a result of changes in the exchange rate since the draft had been issued.

The complainant made a complaint to the Public Trustee and was dissatisfied with the outcome and the manner in which it was dealt with. He complained to us.

INVESTIGATION

We investigated the matter and formed the view that the Public Trustee:

- had acted unreasonably by paying the complainant the interim distribution in English pounds without first obtaining his instructions on how he wanted the distribution to be made
- had acted unreasonably by refusing to assume the loss resulting from conversion of the amount distributed to the complainant into Australian dollars
- did not provide a response to the complainant within the period specified in its Complaints Management Policy.

OUTCOME

We recommended the Public Trustee:

- distribute the sum of AUD \$20,000 from the estate to the complainant
- meet any financial loss that arose from the conversion to Australian dollars
- review its policy and practices to ensure that instructions from overseas beneficiaries about the form and currency of payment are obtained before distributions are made
- amend its Complaints Management Policy to specify timeframes for internal reviews and appeals.

The Public Trustee accepted all of the recommendations. The informal approach we adopted in investigating the complaint resulted in a positive outcome for the complainant and an improvement to the Public Trustee's administrative practices.

CASE STUDY 13

Incorrect payment of debt

BACKGROUND

A prisoner was awarded a compensation payment of \$20,000 under the Forde Redress Scheme. The payment was confiscated by Queensland Corrective Services (QCS) to be paid as compensation to an alleged victim of crime. The prisoner only became aware of the loss of the money when there were no funds left in his prisoner trust account to purchase daily essentials. The correctional centre at which the prisoner was detained could not supply any details about the identity of the alleged victim or who directed the compensation payment be paid by the prisoner.

When the prisoner was not given any explanation or details about the payment, he contacted us through the Prisoner PhoneLink service. The prisoner stated that he was not aware of any victims of crime who would have had a legitimate claim against him.

INVESTIGATION

We contacted the correctional centre where the prisoner was housed and were advised a payment of \$20,000 had been made to the Department of Justice and Attorney-General (JAG) and a further debt of \$5,000 was outstanding. The correctional centre had made the payment after receiving a spreadsheet from JAG listing payments to be made by prisoners. The spreadsheet did not contain any details about who would receive the payments.

Victim Assist Queensland advised us that the prisoner was not on its database and suggested the payment may have related to unpaid fines being managed by the State Penalties Enforcement Registry (SPER). However, inquiries revealed SPER also had no record of the prisoner on its database.

OUTCOME

Further inquiries were made with the Department of Communities and JAG, which revealed the prisoner's name was placed on the JAG spreadsheet in error and that no victims of crime were entitled to compensation from him. The prisoner's trust account was re-credited with the \$20,000 and records were changed to show the prisoner did not owe any debt to a victim of crime.

This was a positive outcome achieved for the prisoner who had believed no one would follow up his concerns.

Queensland Corrective Services

The Queensland Ombudsman plays an important role in promoting accountability and fair process within Queensland Corrective Services (QCS) in the treatment of prisoners.

During 2009-2010, we finalised our reports on two own initiative systemic investigations. The first was *The Classification and Movement of Prisoners Report* on our investigation of QCS' process for the classification, placement and transfer of prisoners. The second was the *Justice on the Inside Report* on our review of QCS' management of breaches of discipline by prisoners.

Complaints about QCS

During 2009-2010, we received 953 complaints about the actions and decisions of QCS and 190 complaints about the Queensland Parole Board (QPB). The combined total of 1,143 complaints exceeds last year's combined total of 1,055 complaints (8% increase) and constitutes the largest number of complaints received since 2005-2006.

We consider that the decrease in complaints relating to the QPB of 15% is attributable, at least in part, to changes in the processes associated with parole applications, in particular:

- extending the determination period for applications, and
- improved communication with prisoners about the progress and outcome of applications.

We received 953 complaints about the actions and decisions of QCS and 190 complaints about the QPB.

TABLE 14: Complaints about QCS and QPB

	05-06*	06-07*	07-08	08-09	09-10
QPB	-	-	113	223	190
QCS	-	-	999	832	953
Total	1,211	1,117	1,112	1,055	1,143

* Note – Data did not distinguish between QCS and QPB complaints

What prisoners complained about

In 2009-2010, 50% of complaints about QCS related to Offender Management issues, which included issues relating to:

- the transfer of prisoners between correctional centres (16% of this category)
- the assessment process undertaken by correctional centres relating to parole applications (16% of the category).

Other prominent complaint categories were:

- Prisoner Services – including issues relating to access to or loss of property, employment of prisoners in centres and communication (such as access to telephones and the opening of privileged mail) (22% of complaints against QCS)
- Safety and Security – including issues relating to visits and searches of prisoners and visitors (13% of complaints against QCS).

How complaints are made about QCS

The most common method for prisoners to complain to us is via the Prisoner PhoneLink service. We continued to provide this free and confidential service with the cooperation of QCS. The service is available at every Queensland correctional centre and is particularly useful for prisoners who have limited literacy skills.

In 2009-2010, 50% of complaints about QCS were received via the Prisoner PhoneLink compared with 46% in 2008-2009. Other methods for making complaints included by letter (21%) and regular telephone (16%).

We visited each of Queensland's 14 correctional centres during 2009-2010. During these visits, we:

- investigated and resolved complaints
- undertook broader investigations of systemic issues
- raised awareness of our services among prisoners
- provided information and advice to centre management
- audited administrative processes
- monitored QCS' complaints management system.



TABLE 15: What prisoners complained about (excludes QPB complaints)

Category	08-09	%	09-10	%
Offender management	417	50%	480	50%
Prisoner Services	187	23%	206	22%
Safety & Security	105	13%	132	13%
Conduct – Staff	36	4%	43	5%
Incident Management	29	4%	23	2%
Complaint Management	24	3%	11	1%
Health & Medical	11	1%	36	4%
Legal	10	1%	9	1%
Industrial Relations – Staff	9	1%	11	1%
Operational Support Services	2	<1%	2	<1%
Communication	1	<1%	-	-
Investigation	1	<1%	-	-
Total	832	100%	953	100%

Note – Amounts shown in this table may not add to the correct sub-totals or totals due to rounding.



TABLE 16: How complaints are made against QCS

Channel	08-09	%	09-10	%
Prisoner PhoneLink	385	46%	477	50%
Written	191	23%	196	21%
Telephone	158	19%	151	16%
CC interview	70	8%	82	9%
Web	13	2%	21	2%
Email	7	<1%	15	1%
Fax	6	<1%	5	<1%
In person	2	<1%	4	<1%
Voicemail	-	-	2	<1%
Total	832	100%	953	100%

Note – Amounts shown in this table may not add to the correct sub-totals or totals due to rounding.



**of complaints about QCS
were received via the
Prisoner PhoneLink**

Prisoner complaints investigated

In 2009-2010, we finalised 1,144 complaints about QCS and QPB of which 432 (38%) were the subject of some form of investigation (usually by informal investigative processes).

In 2009-2010, we declined to investigate 705 complaints (61%) about QCS and QPB, compared to 491 complaints (44%) in 2008-2009). The primary reasons for declining those complaints in 2009-2010 (comprising 55% of the declined complaints) were that:

- the complainant had not attempted to resolve their concern with QCS or QPB before submitting their complaint to us, or
- at the time the complaint was submitted to us, the complainant had already raised their concern with QCS or QPB and was waiting for a decision.



→ Prisoner PhoneLink provides a confidential way for prisoners to contact our Office.

→ **TABLE 17: Number of prisoner complaints we investigated and finalised (QCS + QPB)**

	06-07	07-08	08-09	09-10
QCS complaints investigated and finalised	603	516	433	379
QPB complaints investigated and finalised	*	75	146	53
Total complaints investigated and finalised	603	591	579	432
Total complaints finalised	1,117	999	1,054	1,144
% of complaints investigated	54%	52%	55%	38%

* Note – 2006-2007 data did not distinguish between QCS and Parole Board complaints.

Note – Amounts shown in this table may not add to the correct sub-totals or totals due to rounding.

What we found

Of the 379 complaints about QCS that we investigated during 2009-2010, we established maladministration in only three cases. In 227 complaints (218 complaints in 2008-2009), our intervention led to the problem being rectified or we provided information to complainants that addressed their concerns. In those cases, it was not necessary for us to make any finding about whether or not the decision complained about involved maladministration.

What we recommended

We made 46 recommendations during 2009-2010 - a significant increase on the 17 we made in 2008-2009. Most of the recommendations stemmed from our own initiative systemic investigation into QCS' management of breaches of discipline by prisoners. Our report on the investigation titled *Justice on the Inside* was tabled in Parliament in October 2009. QCS agreed to implement all of those recommendations. (see p.60)

All but one of the recommendations were 'systemic', that is, intended to improve QCS' processes and procedures. The one 'direct benefit' recommendation was that QCS review the outcome of a major breach process concerning a prisoner.



**complaints about QCS
and QPB finalised in
2009-2010**

CASE STUDIES

QUEENSLAND CORRECTIVE SERVICES

CASE STUDY 14

Transfer presents safety risk

BACKGROUND

We received a complaint through our Prisoner PhoneLink service from a prisoner at Maryborough Correctional Centre (MCC). He was concerned about his scheduled transfer to Brisbane Correctional Centre (BCC) for an appearance at the District Court. He alleged he had been assaulted by a correctional officer at BCC while previously accommodated there and was concerned he would be the target of further assault if placed there again.

The prisoner said he had raised his concerns with sentence management staff at MCC but had not received a response.

INVESTIGATION

We searched the Queensland Corrective Services database and confirmed the prisoner had been involved in the incident he described and that the investigation into the incident had not yet been finalised.

We contacted MCC and raised the prisoner's concerns about the potential risk to his safety should he be transferred to BCC.

OUTCOME

We received advice from MCC that options to place the prisoner at another centre, rather than BCC, were being explored. It was subsequently confirmed by MCC that the prisoner would be temporarily transferred to another centre.

CASE STUDY 15

Safety of high protection prisoner

BACKGROUND

A complaint was received through our Prisoner PhoneLink service from a protection prisoner a few days before he was scheduled to be transferred to another accommodation unit. He said he feared for his life if moved to the new unit because of threats made against him by prisoners housed in that unit.

INVESTIGATION

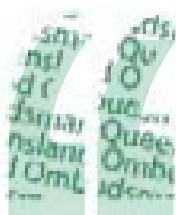
We contacted the centre and raised the prisoner's concerns with the Operations Manager. He quickly instructed his line managers to investigate and report back to him. The Operations Manager advised us he had suspended the prisoner's movement pending the outcome of the internal investigation.

Subsequently, the Operations Manager confirmed that the internal investigation had found the prisoner harboured real concerns regarding his personal safety.

OUTCOME

QCS management at the centre decided not to move the prisoner from the 'special needs' unit where he was accommodated.

The Operations Manager expressed his appreciation that we had brought the matter to his attention.



In 227 complaints our intervention led to the problem being rectified or we provided information to complainants that addressed their concerns.



CASE STUDIES

QUEENSLAND CORRECTIVE SERVICES

CASE STUDY 16

Visiting secure hospital unit

BACKGROUND

A complaint was received from the partner of a terminally ill prisoner being held in a secure hospital wing. Under Queensland Corrective Services' policy on visits to prisoners, the prisoner's partner and immediate family were essentially unable to visit him. The complainant sought our assistance to expedite the security clearance procedure so that family members could visit the prisoner.

INVESTIGATION

We contacted an officer of QCS who confirmed the prisoner's circumstances and advised he had applied to the Parole Board for compassionate parole and that a decision was pending.

The officer also offered to contact the complainant to explain the procedure for visiting prisoners in hospital and how restrictions can be eased when terminally ill prisoners enter the final stages of their lives.

OUTCOME

The complainant received a telephone call from a QCS officer, as promised, who advised of the procedure. A visit was approved and this took place only two days after the complainant's initial contact with us.

The complainant was happy with the outcome and thanked us for the assistance provided.

CASE STUDY 17

Provision of information to Official Visitors

BACKGROUND

Under the *Corrective Services Act 2006*, a prisoner can be separated from the main prisoner population and isolated in a detention unit under a safety order. Prisoners are placed on safety orders for a range of reasons, including to prevent self harm and harm to others, and to maintain the good order and security of a correctional centre.

Safety orders are regularly reviewed by independent people from the community called Official Visitors. After completing a review the Official Visitor will recommend whether the safety order should be confirmed, amended or cancelled. In undertaking a review the Official Visitor may inspect and copy any document held at the correctional centre relevant to the issuing of the safety order.

The Official Visitor scheme is a key component of our correctional system's accountability framework. For Official Visitors to do their jobs properly, it is important that they are given unimpeded access to relevant information in accordance with their statutory powers.

We received a complaint from a prisoner who challenged the basis on which he had been placed on three consecutive safety orders.

During the course of considering the prisoner's complaint, we received copies of the Official Visitor's reviews of the safety orders. One of the reviews contained a comment that not all of the facts justifying the detention were known to the Official Visitor as some had been suppressed for security reasons.

We were concerned that the Official Visitor had been denied access to material relevant to the making of the safety order.

INVESTIGATION

Our officers discussed the matter with centre management staff who advised that the intelligence information on which the safety orders were based had not been specifically requested by the Official Visitor and therefore had not been provided.

We also spoke to the Official Visitor who confirmed that she had not asked for the intelligence material.

OUTCOME

We were satisfied the centre had not committed a breach of the *Corrective Services Act* by denying the Official Visitor access to the information. We wrote to the Commissioner of QCS, emphasising the importance of providing all material relating to prisoners on safety orders and that Official Visitors should not have to request specific information.

Local councils

During 2009-2010, we finalised an audit of councils' compliance with the General Complaints Process outlined in the Local Government Act and other best practice complaints management indicators. Our analysis enabled us to effectively contribute to the development of a new legislative framework for those systems incorporated into the Local Government (Operations) Regulation 2010.

We conducted an operational audit of the Gold Coast City Council's complaints management system.

We also investigated complaints about a wide range of local government issues and worked closely with councils to improve their administrative processes and decision-making.

Local council complaint trends

In 2009-2010, we received 2,256 complaints about councils, a 14% increase on 2008-2009. This excludes complaints about South East Queensland water retailers.

What people complained about

This year, people complained most about matters relating to councils' enforcement of their local laws (23% of complaints in 2009-2010, an increase of 53% on 2008-09). The next highest category comprised complaints about development and building controls (16% of complaints in 2009-2010).

Other categories in which complaints increased by more than 10% from the 2008-2009 figures were:

- water supply – 60%
- parks and reserves – 42%
- personnel – 26%
- roads – 18%
- sewerage and drainage – 15%
- rates and valuations – 12%.



FIGURE 5: Council complaint trends



Council complaints finalised and investigated

We investigated 494 of the 2,287 council complaints we finalised.

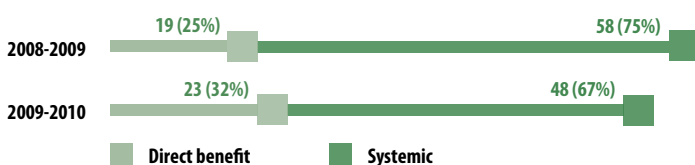
TABLE 18: Finalised complaints about councils – what people complained about

Complaint category	07-08	08-09	09-10
Laws and enforcement	335	339	520
Development and building controls	372	347	358
Rates and valuations	144	211	237
Roads	107	131	155
Sewerage and drainage	92	124	143
Water supply	70	71	114
Personnel	52	78	99
Complaint handling	62	86	90
Environmental management	101	94	84
Parks and reserves	31	43	61
Other issues	477	402	426
Total	1,843	1,926	2,287

TABLE 19: Outcomes of investigation of council complaints

Finding	07-08	08-09	09-10
Maladministration established	16	26	33
No maladministration finding necessary	99	87	97
No maladministration established	235	234	290
Discontinued	94	84	71
Withdrawn	4	26	3
Total	448	457	494

FIGURE 6: Recommendations made to councils



What we found

Of the 494 council complaints we investigated, we formed the opinion that maladministration had occurred in 33 cases. In relation to the decisions and actions which led to those 33 complaints, we concluded that:

- 12 were contrary to law
- 11 were unreasonable or unjust
- 8 were otherwise wrong
- 1 was based on irrelevant considerations
- 1 was made without giving reasons.

During 2009-2010, we completed a number of significant investigations into councils. These included:

- Brisbane City Council's failure to release to a councillor minutes of its Establishment and Coordination Committee meetings (see p.55)
- Fraser Coast Regional Council's unlawful inclusion in development approvals of conditions requiring contributions to public art (see p.62)
- Toowoomba Regional Council's failure to comply with the *Local Government Workforce Transition Code of Practice* in making appointments to its executive organisational structure following the creation of the new council (see p.64)
- Whether Etheridge Shire Council's use of Natural Disaster Relief Funding for the purpose of realigning a road damaged by floods was unlawful
- Whether Woorabinda Aboriginal Shire Council had acted unlawfully or unfairly in the grant of a lease of a commercial shop and residential premises (see p.65)
- Whether Whitsunday Regional Council had acted unlawfully or unfairly in transferring funds from a rate payer's rates account to a third party without the rate payer's approval. (see p.53)

What we recommended

We made 71 recommendations to councils during 2009-2010. The majority of these recommendations stemmed from the significant investigations outlined above.

Forty-eight of the 71 recommendations were 'systemic', that is, intended to improve councils' processes and procedures. Some examples of the systemic recommendations we made to councils are:

Local laws

- Review meeting local laws and subordinate local laws to ensure they are consistent
- Repeal the section of council's regulated parking law generally prohibiting parking in urban areas for longer than two hours

Policy/Procedure

- Develop a policy to deal with overpayment and pre-payment of rates, requests for refunds, and third party dealings on rate accounts
- Develop policies and procedures to guide officers in complying with their obligations under the *Public Records Act 2002* in recruitment and selection processes
- Develop guidelines for its officers in relation to the requirements of the *Aboriginal Land Act 1991* when granting residential leases over council land
- Develop a written procedure to guide officers when constructing new roads, or realigning them, to ensure legislative requirements are met
- Develop and adopt a planning scheme policy dealing with public art contributions in conjunction with the development of a new planning scheme

Decision-making

- Take steps to ensure that the CEO and senior staff are aware of the requirements of the delegations register adopted by council under s.472 of the *Local Government Act 1993*, in particular the CEO's obligations under the delegations register when proposing to enter into contracts on behalf of council
- Ensure that decisions on whether public art submissions comply with development conditions are made by council or its duly authorised delegate
- Before commencing or authorising any works in an area that may be a watercourse under the *Water Act 2000*, council:
 - Assess whether the area is a watercourse and, if there is any uncertainty, seek advice from DERM
 - Assess whether the work falls within the relevant Guideline
 - If the works are not covered by the Guideline, apply to DERM for a permit under the *Water Act* to undertake the work.

Compliance with law

- Proceed without delay to secure a legal right over the portion of a realigned road constructed on private land
- Cease including development conditions for public art contributions in development approvals unless council adopts a planning scheme policy dealing with public art contributions

Training

- Provide training to officers on their obligations under the *Public Records Act* in relation to recruitment and selection processes

Record-keeping systems

- Improve record-keeping policies and procedures to ensure compliance with the *Public Records Act*, and provide training to staff in record-keeping requirements

Recommendations made to provide redress to individual complainants included that the relevant council:

Access to information

- Immediately make E&CC minutes open for inspection by BCC councillors and to members of the public, unless non-disclosure is authorised by a local law

Ex gratia payments

- Make an ex gratia payment to compensate the complainant for transferring funds without his approval from his rate account to a third party, and for his reasonable legal costs associated with his attempts to have the council return the money
- Make an ex gratia payment to compensate the complainant for the expense incurred in the commissioning, design and installation of public artwork he was required to erect as a condition of the development approval

Apologies

- Issue a written apology to affected council staff, including the complainants, on a 'without prejudice' basis, for council's failure to comply with the code applying to appointments to positions in the executive organisational structure
- Provide a written apology to the complainant for failing to comply with legislation in relation to the realignment of a road, including its failure to seek the complainant's consent

Refund of charges

- Recalculate an infrastructure charge and make a refund of any overpayment to the complainant.

Future activities

Under the *Local Government (Operations) Regulation 2010* councils are required by 1 July 2011 to comply with a new set of requirements for their complaints management systems. We will be working with the Gold Coast City Council to monitor the implementation of recommendations we made as a result of our operational audit of the council's complaints system and will, where requested by other councils, provide advice on how to improve their complaint systems.

We will continue to provide high quality training in good decision-making and complaints management in Brisbane and throughout Queensland.

CASE STUDIES

LOCAL GOVERNMENT

CASE STUDY 18

Clarifying agreements between residents and councils

BACKGROUND

Bundaberg Regional Council officers entered the complainant's property with her oral consent to access a sewer main in order to install services to facilitate a connection for a neighbouring property. At a later date, the officers re-entered the property in the belief the owner had given verbal consent, leaving a three to four metre hole and an excavator in the backyard. The complainant said on this occasion she had not consented to the officers entering the property without giving her prior notice. The work, which involved the installation of three inspection openings, was completed the following day.

The owner asked council to clarify who owned, and was responsible for, the maintenance of the new sewer connection. The council failed to provide a clear answer and advised the owner that in accordance with council's policy on building over sewer pipes she would not be able to build over the new sewer connection.

At this point the owner complained to us stating that this information contradicted the verbal advice provided to her by a council officer prior to the work commencing. Further clarification and a legal agreement for the ownership, maintenance and responsibility for the new sewer connection or for council to conduct such work as may be required to remove the new sewer connection.

She also sought the following administrative changes:

- internal process improvements for consultation with property owners where a combination sewer main or other purpose requires the removal or installation of a sewer connection, and
- an appropriate procedure so that sewer conditions are placed on development approvals when required
- monetary compensation for council's entry and installation of services on her property.

INVESTIGATION

In response to our inquiries, council said it entered the property under s.1070 of the *Local Government Act 1993* (LGA). Section 1070(2)(b) provides that entry may be made if the owner and occupier of the land agree to the entry.

Although s.1070(2)(b) does not require a council to obtain a written agreement to enter a property, we found that the lack of an agreement can lead to a misunderstanding about what was discussed and the location and extent of the work to be completed.

In regard to the further work performed on the property without obtaining consent from the property owner, council advised it may have been an oversight, but the storing of plant and equipment on site is usual practice and the site is always made safe at the end of each working day.

We found that the work was not of a type that allowed council to enter the property without agreement, or to rely on the purported agreement obtained for work carried out on a previous occasion. This was because an agreement must be obtained for each entry, unless it is clear from the original agreement that subsequent entries are authorised.

We formed the view that the council, in failing to obtain agreement to enter the premises, had contravened s.1070(2)(b) of the LGA. We also considered that council's actions in entering the property without notifying the owner, and in performing work there and then leaving the hole and excavator on site, constituted unreasonable administrative action.

In relation to the maintenance of the new sewer connection, we found that as council had built it, it would be reasonable to assume that it was council infrastructure and therefore that council was responsible for its repair and maintenance.

We found the council acted unreasonably by not seeking to minimise the impact of services on an already burdened property and we asked council to provide a clear statement to the owner about her ability to build over the inspection openings.

In regard to the owner's claim for compensation, we found that s.1071 of the LGA provides for compensation to be paid where a person suffers damage as a result of a council exercising power under s.1070. In the circumstances, we formed the view that council should reconsider the complainant's compensation request unless it removed the sewer connection from her property.

OUTCOME

We made the following recommendations to council:

- When entry is to be gained to land for a local government purpose under s.1070 of the LGA, council obtain permission from the occupier in writing, where no urgency is associated with the work.
- Where oral permission is given, officers make complete and accurate records of the discussions and the giving of the permission.
- Council provide a clear statement to the owner as to the ownership and responsibility for the maintenance of the services installed on her property, after consulting its legal advisers.
- Council reconsider the remedies to deal with the complaint, after taking legal advice.
- Council provide written clarification to the owner of her entitlement to build over any or all of the three inspection openings.
- Council amend its 'Building over sewers' policy to identify the circumstances in which landowners can build over property connections and inspection openings, and any associated obligations on landowners.

After taking legal advice, the council accepted all the recommendations.

The council also made an offer to the complainant to remove the new sewer connection from her property, which she accepted.

Finally, the council apologised to her for its actions.

CASE STUDIES

LOCAL GOVERNMENT

CASE STUDY 19

Dealing with prepayment and overpayment of rates

BACKGROUND

The complainant was the sole registered owner of two properties, and lived in one of them with his partner. He arranged for \$50 a fortnight to be paid into a 'rate assessment account' held by the Whitsunday Regional Council to cover the rates on his two properties. His partner also paid \$50 a fortnight into the account for one of the properties.

The relationship ended and his former partner asked the council to pay \$1,200 from the rate assessment account into her private bank account. The council complied with her request. When the complainant received his rates notice for the following year, he inquired about the balance of his rate assessment account and was informed of the council's payment to his former partner.

The complainant complained to the council and was told by the former Chief Executive Officer that the council had acted appropriately and lawfully in making the payment, but did not give any reasons for this decision.

The complainant complained to us about the council's payment to his former partner, and about the council's response to his complaint.

INVESTIGATION

We obtained the council's records relating to the rate assessment account, as well as information from the officers involved.

We found:

- The council's transfer of \$1,200 from the complainant's rate assessment account to his former partner's private bank account was unreasonable and/or unjust and/or wrong in that:
 - ↘ once the council credited the former partner's money to the complainant's rate assessment account, she renounced ownership of the money and it was held by the council for the sole purpose of meeting the complainant's future rates liability
 - ↘ the complainant was not notified of, and did not consent to, the transfer of the funds to his former partner's account
 - ↘ the council did not have sufficient grounds to reasonably believe that the complainant had authorised his former partner to request the transfer.
- The council had not complied with its obligation under the *Public Records Act 2002* to make and keep full and accurate records of:
 - ↘ the decision that the money held in the complainant's account be transferred to his former partner's bank account
 - ↘ the reasons for the decision.
- The decision of the former CEO to reject the complaint was unreasonable and was also a decision for which reasons should have been given but were not given.

OUTCOME

We recommended that the council:

- make an ex gratia payment of \$1,200 to the complainant, plus reasonable legal costs associated with his attempts to have the council return the money to compensate him for the loss he incurred.
- develop and adopt policies and procedures to deal with overpayment and prepayment of rates, requests for refunds, and third party dealings on rate accounts, including:
 - ↘ the form of application
 - ↘ who may make the application
 - ↘ steps to be taken and considerations relevant to assessing entitlement to any refund or adjustment to the rate assessment account
 - ↘ authorisation of the action to be taken on the account
 - ↘ the process for making any refund or adjustment to the rate account
 - ↘ in the case of a request made by a person other than the property owner, the form of owner's authority required, and the steps to be taken to notify the owner and obtain their consent.

The council accepted our recommendations.

CASE STUDY 20

Property owner overcharged for registration fee

BACKGROUND

The owner of a multi-residential duplex property in Townsville complained to us that the registration fee on his duplex had doubled from 2007-2008 to 2008-2009.

The complainant sought a reduction in the fee as he considered the amount of the annual increase was excessive based on the level of service he received.

INVESTIGATION

We contacted the council and requested information concerning the method by which the fee was calculated.

The council conducted a review of the fee which resulted in it detecting that an amount of \$32.40 was overcharged on each fee imposed in the 2008-2009 year because of a computer inputting error made when calculating the fee.

This error had not been detected prior to the passage of the council's relevant budget resolution.

OUTCOME

Our inquiries about the complaint resulted in the Townsville Regional Council making 3,050 refunds to ratepayers totalling \$98,820.

CASE STUDIES

LOCAL GOVERNMENT

CASE STUDY 21

Distorted image better than none

BACKGROUND

A property owner complained to us that vehicles could no longer safely exit his driveway because his neighbour had built a front fence which obstructed visibility of approaching traffic.

The owner raised his concerns with the Brisbane City Council. Council was already aware of the safety issues on this road, as it had been active since at least 1996 in making improvements in and around this location.

However, the owner did not think that these improvements satisfactorily addressed the safety issue for his tenants or the motoring public.

In November 2008, council officers placed a convex mirror in the median outside the tenanted property on a trial basis, which the owner and his tenants found improved visibility. However, council refused to install a convex mirror on a permanent basis without the owner and his tenants first indemnifying council from possible legal action by anyone involved in an accident at the site who had used the mirror.

The owner complained to us that the council had acted unreasonably by refusing to install a convex mirror unless he and his tenants signed an indemnity.

INVESTIGATION

During the investigation we considered:

- whether the location and height of the fence reduced visibility for people exiting the tenanted property to the extent that there was a risk to the safe movement of traffic
- whether the installation of a convex mirror would assist in improving safety
- the reasonableness of the council's requirement that the owner and his tenants sign an indemnity before the council would install a convex mirror.

In response to our inquiries, council advised that it was a civil matter between land owners and there was no public interest for it to become involved.

We considered that the council has a public duty to take reasonable steps to ensure the safety of all road users on roads under its control. Although the situation was not of the council's making, there appeared to be danger not only to occupants of vehicles leaving the owner's property, but also to other road users because of the inadequate sightline distance for vehicles leaving those premises.

In response to our recommendation that the council install a convex mirror at the location to improve visibility, council initially stated that installation of a mirror was 'unnecessary and dangerous in its own right' as it produced a distorted image. We found this statement to be inconsistent with the installation of mirrors on other council roads and with council's *Convex Mirrors Use on Roads Guideline*.

We informed the council that it should undertake a risk assessment. In response, the council appointed a traffic engineer to review the situation. The traffic engineer subsequently reported to council there were safety issues associated with vehicles exiting the driveway and concluded that the erection of a convex mirror and warning signage was appropriate.



→ Convex mirror installed to improve road safety

The traffic engineer further stated in his report that the 'assessment identifies that erecting the convex mirror, and appropriate warning signage, while not optimal, is the only practical solution to address the safety concern. While the mirror would not provide any information on the speed of vehicles approaching, it is the presence of a vehicle approaching that is the primary factor in this situation'.

In relation to the requirement that the owner and his tenants sign an indemnity, we found that this constituted unreasonable administrative action for the purposes of s.49(2)(b) of the Ombudsman Act in that the council has not required anyone else using such mirrors in the Brisbane area to sign a similar undertaking.

OUTCOME

We made a recommendation that the council install:

- a convex mirror at its own cost in the most appropriate position for use by drivers of vehicles exiting the property and, for that purpose, assess the best type of mirror for use in that position, and
- appropriate warning signs about the presence and use of the mirror.

After receiving the traffic engineer's report, the council advised that in light of the traffic engineer's findings, it would install a convex mirror at the location without the requirement for the owner or his tenants to indemnify the council against any civil claims arising from the use of the mirror.

POSTSCRIPT

We received the following letter from the complainant:

'We are so thankful for your legal skills, perseverance, ongoing diligence, and your understanding in this difficult project, (ongoing over the last 3 years), and to finally produce this most satisfying outcome for us.

We are so pleased, (as are our tenants), in that they can now exit this driveway with surety, and can be comfortable in knowing that their own safety, and those of other approaching motorists using the road, to be safer every time.'

CASE STUDIES

LOCAL GOVERNMENT

CASE STUDY 22

Inspection of civic cabinet minutes

BACKGROUND

The Brisbane City Council's Acting Town Clerk refused an application from a councillor under the council's City Service and Administration (CSA) local law to inspect the minutes of all meetings of council's Establishment and Coordination Committee (E&CC) since March 2008. The Chief Executive Officer confirmed the decision. The reasons given for refusal were that:

- the relevant provision of the CSA local law had been impliedly repealed by a later local law, namely Meetings Local Law 2001 (MLL)
- the council had an administrative policy which precludes access to the minutes of E&CC meetings by all persons who are not members of the committee.

E&CC is a permanent standing committee of the council. It is also sometimes referred to as 'civic cabinet'. Its members comprise the Lord Mayor and the chairpersons of the council's various standing committees.

INVESTIGATION

We investigated whether the minutes had been unlawfully withheld. Because of the importance of the issue, we sought the opinion of Senior Counsel who agreed with our view that the councillor was legally entitled to be granted access to the E&CC minutes under the relevant CSA local law.

We disagreed with the council's reasons for refusing the request on the following grounds:

- the rules of statutory interpretation provide that later Acts repeal earlier inconsistent Acts, but only to the extent of any inconsistency. As the MLL does not contain any provision about access to committee minutes, there is no inconsistency between the relevant provision of the CSA local law and the MLL. Accordingly, the provision of the CSA local law which the councillor sought access under was not impliedly repealed by the MLL and remains in force.
- the CSA local law contains provisions applicable to council committees, including standing committees, about the inspection of minutes of meetings. E&CC is a standing committee constituted by the CSA local law. Therefore, the entitlement of councillors and others to inspect the minutes of E&CC meetings applies to minutes recorded pursuant to the local law.
- as the CSA local law is a valid statutory instrument dealing with inspection of E&CC minutes, the administrative policy in question is inconsistent with the CSA local law and is invalid to the extent of the inconsistency.

OUTCOME

Our key recommendation was that the council comply with the CSA local law by making E&CC minutes:

- open for the inspection of any councillor
- open to inspection subject to the CSA local law.

We also made recommendations to deal with duplication and inconsistency between the CSA local law and the MLL.

Council accepted the key recommendation and allowed the councillor immediate access to E&CC minutes dating to January 2008 and, later, to minutes dating back to 1990.

POSTSCRIPT

During the course of the investigation, the Honourable Desley Boyle MP, Minister for Local Government and Aboriginal and Torres Strait Islander Partnerships, introduced the City of Brisbane Bill 2010 (the Bill) into Parliament on 15 April 2010. The Bill was assented to on 17 June 2010. The *City of Brisbane Act 2010* (CoB Act) commenced on 1 July 2010.

The CoB Act formally recognises the E&CC. However, it contains no provisions authorising the inspection of minutes of council and committee meetings by councillors and the public. In fact, s.172 specifically prevents a councillor who is not a member of the E&CC from accessing the minutes of E&CC meetings. In addition, a corresponding amendment to the *Right to Information Act 2009* (RTI Act) declares E&CC documents to be exempt information for the purposes of the RTI Act for a period of 10 years.

Lord Mayor Campbell Newman argued that such an exemption was necessary to enable council 'to protect its core decisions in the same way as similar sized commercial and public sector organisations'. We consider this argument to be a spurious one because:

- public sector organisations do not have a blanket exemption and it is not apposite to liken the council to a commercial organisation
- sufficient protections already exist in the RTI Act in respect of such decision-making and commercial-in-confidence material
- consideration should always be given to public interest considerations favouring disclosure and non-disclosure of such material and this balancing exercise is not provided for within the context of a blanket cabinet exemption.

During the Parliamentary debate on the Bill, the RTI exemption was supported by both government and opposition MPs (some independent MPs spoke against it) on the grounds that E&CC is a local government equivalent of State Cabinet and its documents should be afforded the same level of protection. Again, we consider that this argument is flawed. The State Cabinet exemption can be justified under the long established tradition in Westminster parliamentary systems of cabinet solidarity. Regardless of the size of the council or its budget, we do not consider that there is justification for applying this principle to a local council which is a creature of statute created by State Parliament.

We also note that, during the relevant Parliamentary debate, the Minister for Local Government and Aboriginal and Torres Strait Islander Partnerships stated¹ that the RTI exemption provision 'will only be validating the practice that has been occurring within the E&C Committee for many years'. As a result of our investigation, we formed the view that, up until the introduction of the CoB Act and the new RTI exemption, the council's practice of refusing access to E&CC minutes was wrong and contrary to law. The Senior Counsel whose advice we sought also agreed with our view.

¹ Hansard, 9 June 2010, page 1942

CASE STUDIES LOCAL GOVERNMENT

CASE STUDY 23

Family receives refund from council

BACKGROUND

A family who was subdividing their land disagreed with the way the Maranoa Regional Council had calculated an infrastructure charge they were required to pay as a condition of approval.

The infrastructure charge was a contribution towards the cost of upgrading the road running next to the land. One of the subdivided lots (Lot 5) had been included in the calculation even though it did not have access via the road that was being upgraded.

The family complained to us that the council's calculation was wrong and should not include Lot 5.

INVESTIGATION

We considered the terms of the council's decision notice which set out the conditions for the subdivision and had extensive discussions with the council regarding the calculation of its infrastructure charge. We also considered the council's practices generally as they related to infrastructure charges.

We found that:

- The council had no basis to claim an infrastructure charge in respect of Lot 5.
- A written record of the original calculation of the infrastructure charge was not made and kept in accordance with the requirements of the *Public Records Act 2002*.
- The council's practices regarding the calculation of the infrastructure charges applying to subdivisions in rural areas were inadequate.

OUTCOME

We recommended that council:

- Recalculate the infrastructure charge and in doing so exclude Lot 5 from its calculations.
- Make a refund of any overpayment of the infrastructure charge to the family.
- Remind its officers of the need to make and keep full and accurate records of all activities undertaken on behalf of the council.
- Formulate a policy for the calculation of infrastructure charges for subdivisions in rural areas.

The council accepted all of our recommendations.

We had further discussions with the council about the exact calculations for the infrastructure charge in this case. The outcome was that the family received a refund of over \$30,000. The family was very happy with the outcome.

Universities

The significant increase in university complaints reported in previous annual reports continued in 2009-2010.

Over the past three years, university complaints have increased by 132% (from 113 to 262). In 2008-2009, we reported that they had increased by 40% (from 130 to 182). This year they rose by 44% (from 182 to 262).

The growth in complaints has primarily been driven by the introduction in 2007 of the *National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007* (the National Code).

Standard 8 of the National Code requires that registered tertiary education providers, such as universities, must have complaints and appeals processes that are independent, easily and immediately accessible and inexpensive for the parties involved. The National Code also requires that the providers must have arrangements in place for a person or body independent of and external to the registered provider to hear complaints or appeals arising from the decisions of the provider.

While not obliged to nominate the Ombudsman as the external review body, in practice, most Queensland universities refer dissatisfied appellants to our Office. This enables us to review decisions that could result in an international student's visa being cancelled by the Commonwealth Department of Immigration and Citizenship. Pending the outcome of our review, the university should not proceed to cancel the student's enrolment and, therefore, the possibility of visa cancellation is also deferred.

Although the National Code has recently been reviewed, the role of each state and territory Ombudsman remains. We anticipate that for universities with a high number of overseas students, such as Griffith University in which 25% of its students are from overseas, complaint numbers will continue to reflect this trend.

Universities complained about

Griffith University and the University of Queensland account for over half (55%) of all university complaints received (down from 66% in 2008-2009). The number of complaints received about Griffith University decreased in 2009-2010 (75 complaints down from 89 in 2008-2009) whereas the number of complaints received against University of Queensland increased in 2009-2010 (69 complaints up from 30 in 2008-2009).

There were also significant increases in the number of complaints made about:

- Queensland University of Technology, up 281% (11 in 2008-2009 to 42 in 2009-2010)
- James Cook University, up 83% (18 in 2008-2009 to 33 in 2009-2010)
- Central Queensland University, up 63% (16 in 2008-2009 to 26 in 2009-2010).

Improvements to our case management system will enable more detailed reporting of the subject matter of university complaints in the future.

**TABLE 20: Universities complained about**

	06-07	%	07-08	%	08-09	%	09-10	%
Griffith University	23	20%	46	35%	89	49%	75	29%
University of Queensland	30	27%	30	23%	30	17%	69	26%
James Cook University	9	8%	11	9%	18	10%	33	13%
Central Queensland University	12	11%	8	6%	16	9%	26	10%
Queensland University of Technology	15	13%	18	14%	11	6%	42	16%
University of Southern Queensland	14	12%	13	10%	7	4%	2	>1%
University of the Sunshine Coast	9	8%	1	1%	5	3%	12	5%
Out of jurisdiction universities*	1	1%	2	2%	3	2%	2	>1%
Unspecified	-	-	1	0.8%	3	2%	1	>1%
Total	113	100%	130	100%	182	100%	262	100%

* Note – Bond University and the Australian Catholic University are outside the jurisdiction of the Queensland Ombudsman

Note – Amounts shown in this table may not add to the correct sub-totals or totals due to rounding.

Recommendations made to universities

In 2009-2010, we finalised 252 complaints about universities of which 106 (42%) were the subject of some form of investigation (using informal investigative processes).

We established maladministration in four cases (five cases in 2008-2009). Three related to universities failing to adequately record reasons for appeal decisions and failing to provide those reasons to complainants. The fourth related to a university's unreasonable apportionment of tuition and late payment fees between the complainant and the university.

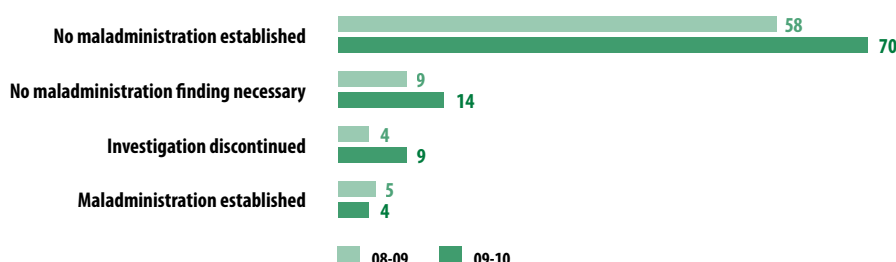
During 2009-2010, we made 19 recommendations to universities. They related to the above issues as well as to the need to amend university policies and procedures to ensure that officers:

- comply with natural justice,
- provide adequate reasons for decisions, and
- make and keep full and accurate records of decisions.

In 14 complaints (nine complaints in 2008-2009), our intervention quickly rectified the problem or we were able to provide information to the complainants that addressed their concerns. In those cases, it was not necessary for us to make any finding about whether or not the decision complained about involved maladministration.

106

complaints about universities were investigated in 2009-2010

**FIGURE 7: Outcomes of investigations about universities**

CASE STUDIES UNIVERSITIES

CASE STUDY 24

Cancellation of enrolment – outstanding tuition fees

BACKGROUND

An international student enrolled in the Master of Commerce program at Griffith University, complained that his enrolment had been cancelled because his tuition fees for semester 2, 2009 were outstanding. The student's delay in paying the fees was caused by the economic situation in Pakistan and the difficulty in obtaining foreign currency.

The student appealed against the cancellation of enrolment and made part payments towards his tuition fees. However, these payments were made after the due date for semester 2, 2009 and the university rejected the student's appeal.

INVESTIGATION

After reviewing the submissions provided by the university and the student, including the university's Fee Rules policy, we were satisfied that the university's decision to cancel the student's enrolment was correct and was consistent with the policy.

However, during the course of the investigation, we identified issues of concern in the documentation relating to the student's appeal. We were not satisfied that the letter issued to the student advising him of the outcome of the appeal provided sufficient reasons for the decision. We also considered that the decision-maker had failed to identify the reasons for decision in an internal document recording the outcome of the appeal.

OUTCOME

As a result of our investigation, we recommended that in determining an appeal against cancellation of enrolment on the grounds of outstanding tuition fees, the decision-maker record the basis for the determination. We also recommended that in communicating the outcome of an appeal against cancellation of enrolment for outstanding tuition fees, the decision-maker provide details of the reasons for decision.

In response to our recommendations, the university advised it would:

- amend its administrative practices to clearly outline the grounds on which appeal outcomes are determined
- undertake to review and amend its decision letters to ensure grounds for decisions are clearly communicated to students
- provide training to staff engaged in the administration of student appeals by utilising the materials we provide on good decision-making.

CASE STUDY 25

Failure to advise student of assessment deadline

BACKGROUND

A university student contacted us, complaining that the University of Queensland had unreasonably charged him \$6,000 of the \$7,500 tuition fees he incurred when he was required to re-enrol late in a core subject. The student stated the need to re-enrol was caused by university staff failing to advise him of a relevant deadline for submitting an assignment for supplementary assessment, and the implications of late submission.

INVESTIGATION

Our investigation considered the requirements of the university's policies and student charter. The charter places responsibility on both staff and students for ensuring that students are aware of the rules relevant to their studies.

After reviewing the situation, we determined that neither the student nor the relevant university staff members were aware of the consequences of not completing the assessment by the end of the semester. We also considered that neither party was wholly to blame for the problem.

We concluded that, although there was an obligation on students to acquaint themselves with the relevant policy, the primary obligation was on the university given the complexity of the rules and its responsibility for developing and enforcing them. Therefore, we considered it largely fell to the university to inform the student of the repercussions of his failure to submit the supplementary assignment. If the student had been aware of the relevant submission date, and submitted the work, he may not have been required to re-enrol.

OUTCOME

Although we found the student should have been more proactive in submitting the assignment, we were not satisfied that this outweighed the obligations of the university to provide clear advice on the relevant deadline and consequences of non-submission.

We recommended that the university reconsider its decision and refund the student \$2,250, meaning that the university and student would share equal liability for the fees.

The university agreed to implement our recommendations.

Public reports and major investigations

We published four public reports¹ in 2009-2010: two own initiative investigations into the practices and procedures of Queensland Corrective Services relating to breaches of discipline by prisoners and the security classification and movement of prisoners; the second edition of a report providing advice for public regulators on good regulatory practice; and a report of the results of our audit of complaints management systems of Queensland Government agencies.

PUBLIC REPORTS

Justice on the Inside: A review of Queensland Corrective Services' management of breaches of discipline by prisoners

In August 2008, we commenced an own initiative investigation into the practices and procedures of Queensland Corrective Services (QCS) in relation to breaches of discipline proceedings (breach decisions).

The reasons for commencing this investigation included the significant impact breach decisions can have on prisoners' access to privileges and on their progression through the prison system. We were also mindful of the limited access prisoners have to independent review of those decisions, and of the fact that a fair and effective discipline system is vital to proper prisoner management.

The principal objectives of the investigation were to:

- determine the extent to which officers are complying with breach practices and procedures and relevant legislation
- determine the adequacy of these practices and procedures
- identify and recommend improvements to practices and procedures, and
- if appropriate, recommend amendments to legislation to enhance the disciplinary system.

The investigation was conducted by, among other things, reviewing a sample of 200 minor and major breach proceedings, including videotaped hearings of major breaches. We also held discussions with QCS officers at three South-East Queensland correctional facilities.

The report on the investigation was tabled in Parliament on 28 October 2009.

Outcome and recommendations

As a result of the investigation, we formed the opinion that in a significant number of cases:

- conduct which should have been dealt with as a minor breach had been dealt with as a major breach
- conduct had been classified as a minor breach and a penalty imposed without a hearing having taken place, and
- a penalty had been imposed for conduct without breach proceedings having been taken.

We considered some of the factors that contributed to these administrative deficiencies were:

- the unnecessary complexity of the administrative process for breach proceedings
- the lack of regular training for officers on how to conduct breach proceedings, and
- the lack of effective systems for monitoring compliance by QCS officers with official procedures.

¹ These reports can be downloaded from our website at www.ombudsman.qld.gov.au

Our investigation also showed that, in some cases:

- the penalty imposed for a breach was inconsistent with penalties imposed for similar breaches
- prisoners were not given sufficient particulars of the alleged breach
- breach hearings were conducted unfairly
- officers failed to record adequate reasons for breach decisions
- videotapes of major breach hearings at one centre had been erased, contrary to the *Public Records Act 2002*
- there were breaks in videotaping of major breach hearings and reviews, without explanation of why the break occurred, and
- breach proceedings were not initiated for positive drug tests, although such breaches are easy to establish in most circumstances.

We made 39 recommendations to QCS to improve its practices and procedures for breach proceedings. In many instances, we recommended that QCS address the maladministration we had identified by:

- amending the relevant procedure
- providing additional training to officers, and
- conducting ongoing monitoring of compliance with regulations and procedures.

We also recommended that the Chief Inspector of Corrective Services undertake a review, by 31 March 2011, to assess the extent of compliance by officers with the *Corrective Services Act 2006* and with QCS' *Procedure – Breaches of Discipline*.

All recommendations were accepted by QCS.

The Classification and Movement of Prisoners Report

Discussed at length in our 2008-2009 Annual Report, the *Classification and Movement of Prisoners Report* was tabled in Parliament on 23 July 2009.

The report made 15 recommendations, all of which were accepted by QCS. By letter dated 24 August 2009, the Director-General of the Department of Community Safety advised that implementation of all of the recommendations was underway.

We also recommended that the Chief Inspector of Corrective Services undertake a review, by 31 December 2010, to assess the extent of compliance by officers with QCS' procedures and guidelines for the security classification, placement and transfer of prisoners.

Tips and Traps for Regulators, Second Edition

In October 2009, we published the second edition of *Tips and Traps for Regulators*. This was one of the activities we carried out in 2009-2010 in discharge of one of our main functions under the Ombudsman Act, which is to help agencies improve the quality of their decision-making and administrative practices.

The first edition of *Tips and Traps for Regulators* was published in 2007 to provide guidance to public sector regulators. It discussed the principles of good regulatory practice from a public sector perspective, illustrating those principles by using case studies drawn from our investigations.

In 2009, the report was updated to include new case studies based on more recent investigations, demonstrating aspects of good regulatory practice and suggesting ways public sector agencies can improve their practices.

The underlying message of the second edition of *Tips and Traps for Regulators* is that regulators should administer regulatory schemes in a way that is:

- **Effective:** the regulator achieves the objective of the regulatory scheme.
- **Consistent:** the regulator fairly and equitably enforces the scheme.
- **Transparent:** the regulator's policies and procedures/strategies for administering the regulatory scheme are open to scrutiny by decision-makers (including supervisors) and those affected by the scheme.
- **Accountable:** the regulator has and adheres to procedures about the way the regulatory scheme is to be administered.

Complaints Matter: A review of the complaints management systems of Queensland Government agencies

In November 2006, the then Public Service Commissioner, at the Ombudsman's request, issued *Directive 13/06 Complaints Management Systems* (Directive). This Directive prescribed a minimum standard for complaints management in Queensland Government agencies covered by the *Public Service Act 1996* (since repealed by the *Public Service Act 2008*).

From November 2007, agencies covered by the Directive were required to have complaints management systems in place that addressed the requirements of the Directive, which included implementing appropriate complaints policy and procedures, and a system for recording and reporting on complaints information. In June 2009, we completed an audit of the complaints management systems of those agencies to assess their compliance with the Directive.

Published in February 2010, *Complaints Matter: A review of the complaints management systems of Queensland Government agencies* presents the results of our assessment, as well as the results of our audit of agencies' websites to assess the assistance they provided to people who wish to make a complaint.

Our investigation revealed almost all state agencies had implemented complaints management systems that satisfactorily complied with the Directive and that the remainder would comply once they implemented the recommendations in our *Complaints Matter* report. Altogether, we made more than 300 recommendations to agencies on ways to improve their systems. Agencies responded positively to those recommendations and, in many cases, have already implemented them.

CASE STUDIES

MAJOR INVESTIGATION

CASE STUDY 26

Dealing with public art in development proposals

BACKGROUND

In 2006, the council issued a development approval to a developer for a multiple unit development. The approval contained a condition which required the developer to provide high quality public artwork pursuant to the Fraser Coast Regional Council's Public Art Policy. The artwork could include sculpture, furniture, lighting, wall treatments, mosaics and tiles.

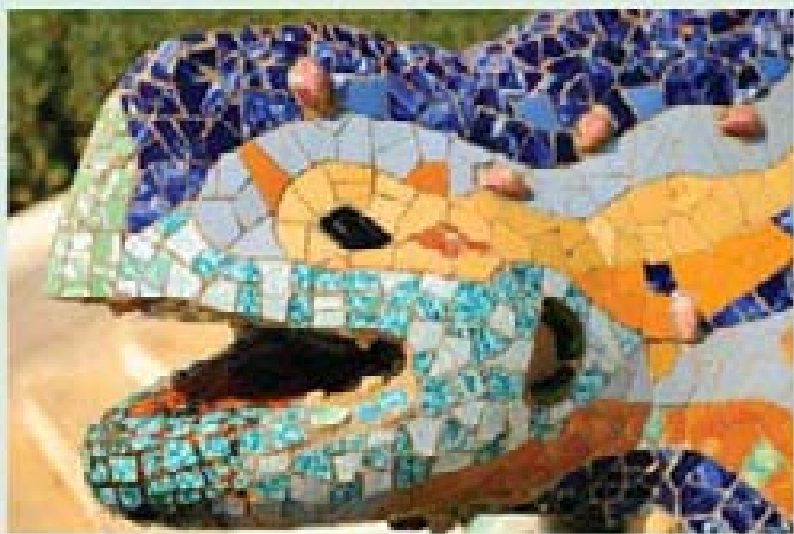
No further discussions occurred about the artwork until early 2008, when construction was at an advanced stage. A meeting was held between the developer, his town planner and a council officer to discuss other issues during which the council officer inquired about the progress of the artwork.

Following this discussion, the developer made three submissions to council between March and May 2008 where particular art proposals were presented. The first two submissions were rejected by the council's Public Art Advisory Group (PAAG). Before making the third submission, the developer sought to expedite the sealing of the development plans so that he could sell the units, as he was feeling some financial strain due to the delay. After discussions with a senior council officer, he agreed to provide a bond prior to the artwork being completed.

The completed artwork cost in the order of \$12,000 and was designed and installed by a local artist, who was referred to the developer by a council officer.

The developer initially complained to us about being unable to obtain information from the council about the Public Art Policy, but later complained about:

- the lawfulness and reasonableness of the public art condition
- unreasonable delay in council approving his art proposal and sealing his plans
- the subjective nature of the assessment of art proposals both in terms of art type and the amount he was required to contribute
- a conflict of interest on the part of a council officer in relation to his association with the local artist.



→ For illustrative purposes only

CASE STUDIES

MAJOR INVESTIGATION

INVESTIGATION

During the investigation we considered:

- the application of an administrative policy for public art contributions
- the requirements of planning scheme policies under the *Integrated Planning Act 1997* (IPA) (now the *Sustainable Planning Act 2009*) relating to public art contributions
- the reasonableness and relevance tests applied to development conditions under s.3.5.30 of IPA.

In response to our inquiries, council advised it could not find any information indicating its planning scheme was amended to include any public art provisions or to adopt a planning scheme policy relating to public art. Council advised that it had been applying a standard condition to developments located in areas identified by the policy and that the condition evolved over time.

We conducted a number of interviews with council officers who felt that council can impose a public art condition, as long as it is both reasonable and relevant to the development.

We sought legal advice from Senior Counsel and found that:

- Council can lawfully make a planning scheme policy about public art contributions under IPA and in assessing and deciding a development application, a local government can only have regard to policies that are planning scheme policies made under IPA. As council did not integrate its policy as a planning scheme policy, it cannot have regard to the policy in assessing and deciding the developer's application.
- The council acted contrary to law by including the condition in the development approval (and by including its standard condition about the provision of public art contributions, or variations of it, in other development approvals) in that the conditions did not satisfy either of the tests under s.3.5.30 of IPA.
- Council's unlawful action in imposing the condition on the developer's development application for a contribution to public artwork resulted in a delay in sealing the developer's plans.

Aside from the legal issues, we found a number of other administrative issues around the council's decision-making and systems for dealing with public art contributions which were contrary to law or unreasonable. These included:

- providing information to and dealing with developers
- establishing a list of local artists for developers to engage
- criteria for approving public art submissions
- decision-making through an advisory committee of council
- roles of advisory committee members
- record-keeping practices.

OUTCOME

We recommended that council:

- Cease including development conditions for public art contributions in its approvals unless it adopts a planning scheme policy dealing with public art contributions.
- Include requirements in its policy for developers to provide an art concept proposal and other relevant information (including the project cost) at the application stage.
- Include clear criteria in its planning scheme policy for decision-making about developer funded public art through the development approval system.
- Make an ex gratia payment to the developer to compensate him for the expense he incurred for the commissioning, design and installation of the artwork approved for his development.
- Review and document the role of PAAG, and provide guidance to its members.
- Monitor developers' progress in relation to public art development conditions from the time the developer's appeal period for the approval has ended.
- Provide guidance to its officers and members of advisory committees about grounds giving rise to a reasonable perception of bias.
- Review its policies and procedures to ensure that it complies with its obligations under the *Public Records Act 2002* to make and keep full and accurate records of its activities and provide training to its officers in this regard.

The council accepted all of our recommendations.

Visit www.ombudsman.qld.gov.au to view the case in full.

CASE STUDIES

MAJOR INVESTIGATION

CASE STUDY 27

Dealing with post-amalgamation fallout

BACKGROUND

A number of regional councils were formed on 15 March 2008 following mergers of many existing local government areas as part of the state-wide local government reform program.

The *Local Government Workforce Transition Code of Practice* (the code), made under s.159ZH of the *Local Government Act 1993*, applied to the initial appointment of staff to positions on the new councils.

The intention of the code was to protect the jobs of all employees of the merging councils, except their respective Chief Executive Officers, for a period of three years after the formation of each new council.

The code provided, in the first instance, for the 'direct translation' of existing employees and for appointments to remaining vacant positions in the new structure to be made by a closed merit selection process. Outside recruitment would occur only where the new council determined a suitable internal candidate was not available.

We received complaints from three officers of the Toowoomba Regional Council alleging the council had not complied with the code. The complaints specifically related to the failure to adopt the closed merit selection process stipulated in the code in making appointments to certain executive positions.

Each complainant sought an apology from the council for its non-compliance and monetary compensation generally based on the salary difference between their respective substantive appointments and the position for which their particular application had been unsuccessful.

INVESTIGATION

Our investigation included discussions with the complainants, relevant current and former council officers and an officer of the former Department of Local Government, Sport and Recreation who was familiar with the policy decisions underlying the code.

We concluded that the council had acted contrary to law in making the relevant appointments in that it had failed to comply with s.8.5.2 of the code. Specifically, the council had employed an open merit selection process for making the appointments without having first undertaken the requisite closed process as required by the code. This view is consistent with legal advice obtained by the council.

In considering what recommendations we should make to the council, we also considered whether it was likely that any of the complainants would have been successful in gaining appointment to the advertised positions had the council complied with the code and undertaken a closed merit selection process as required. After examining the circumstances of the selection processes involving the three complainants, we concluded that none of them was likely to have been successful had a closed merit process been conducted. Under the code, if the council considered that no suitable candidate was available internally, it could proceed to an open process.

Accordingly, we did not make any recommendation to the council about monetary compensation for any of the complainants.

However, our investigation also found some deficiencies in the council's record-keeping practices relating to the selection processes.

OUTCOME

We made the following recommendations to the council:

- a written apology be given to affected staff, including the complainants, on a 'without prejudice' basis, for the council's failure to comply with the code
- policies and procedures be put in place to guide council officers in complying with their obligations under the *Public Records Act 2002* in recruitment and selection processes
- training be provided to council officers on their obligations under the *Public Records Act* in relation to recruitment and selection processes.

The council accepted and implemented all recommendations, including the adoption of a new recruitment and selection policy.

CASE STUDIES

MAJOR INVESTIGATION

CASE STUDY 28

Lessee's rights jeopardised by council agreement

BACKGROUND

Woorabinda Aboriginal Shire Council is the trustee, under deed of grant in trust, of certain property.

Some time between 1998 and 2000, council and the complainants entered into an agreement under which a licence was granted to the complainants to operate a café on the trust land for five years with an option for a further five years. The agreement was not signed by council, but the café was operated in accordance with the agreement by the complainants.

In early 2008, the complainants and council entered into a second agreement which granted a licence to the complainants to operate the café for three years with an option for a further three years. The second agreement was prepared by council's solicitors and signed by the complainants and the CEO of council.

In late 2008, the complainants approached council to request consent to the assignment of the second agreement for the purpose of selling the café business.

Council replied that it considered the second agreement was in fact a lease, not a licence, and that it was void and unenforceable as it had not been validly made. Council subsequently called for tenders in relation to the lease of the café and requested the complainants to vacate the premises.

The complainants complained to us that council's own actions had resulted in the second agreement being void and that they were not at fault as they believed that when they signed the second agreement they had a lawful interest that could be assigned.

INVESTIGATION

We investigated the lawfulness of council's actions in relation to the second agreement and the reasonableness of its decision to proceed with a tender process for the lease of the café.

We considered the content of both agreements, council documents relating to the agreements, council's actions in entering into the second agreement, and the tender documents. We also conducted interviews with the complainants and relevant council officers.

We agreed with the advice council had received from its solicitors to the effect that, as the second agreement purported to grant the complainants exclusive possession of the premises, it should have been in the form of a lease given in accordance with s.491 of the *Local Government Act 1993*. We formed the opinion that the actions of the CEO in signing the second agreement constituted administrative action that was contrary to law and/or based wholly or partly on a mistake of law.

We also found:

- the failure of the CEO to table the draft of the second agreement for council approval was a breach of council's delegations register adopted under s.472 of the *Local Government Act*, and constituted administrative action that was unreasonable and/or wrong
- the failure of the CEO to have the Mayor or the Deputy

Mayor sign the second agreement after he placed the council seal on it was a breach of council's resolution and s.38(3) of the *Local Government Act*, and constituted administrative action that was contrary to law and/or unreasonable.

We formed the view that the council had decided in mid-to-late 2007 to enter into some form of agreement with the complainants to allow them to continue to operate the café and had requested the CEO to implement its decision. However, council's records of this decision and the CEO's actions in implementing the decision were not appropriately recorded by council in compliance with the *Public Records Act 2002*.

We formed the opinion:

- that council's failure to take action to legitimise the complainants' occupation and use of the café premises in similar terms to the second agreement constituted unreasonable administrative action, and
- that, as a result of council's actions, the complainants reasonably believed they were entitled to occupy and use the premises in accordance with the terms of the second agreement and to assign their rights under it subject to council's consent.

OUTCOME

We recommended to council that it negotiate a new lease agreement with the complainants in relation to the café and that, subject to obtaining the relevant statutory exemptions and approvals, it enter into the lease with the complainants.

We also made the following recommendations to council:

- Council take steps to ensure that its CEO and senior staff are aware of the requirements of the delegations register adopted by council under s.472 of the *Local Government Act*.
- Council develop guidelines for its officers in relation to the tendering requirements under the *Local Government Act* when granting leases over council land and conduct regular training for the CEO and senior staff in relation to the guidelines.
- Council develop guidelines for its officers in relation to the requirements of the *Aboriginal Land Act 1991* when granting residential leases over council land and conduct regular training for the CEO and senior staff in relation to the guidelines.
- Council review its policies and procedures to ensure it complies with its obligations under the *Public Records Act* to make and keep full and accurate records of its activities and provide training to its officers on the obligations under the *Public Records Act*.

Council accepted all recommendations and is in the process of implementing them.

SECTION 3

Our engagement

Improving public administration

COMMUNICATE

verb 1. to give another as a partaker; impart; transmit. 2. to impart knowledge of; make known. 3. to have interchange of thoughts.

The Queensland Ombudsman continues to contribute to accountable and effective public administration by assisting Queensland's public agencies to make better decisions and improve the way they handle complaints.

Accountable and effective public administration results in fair decisions for the community. This underpins the activities we carry out in support of our administrative improvement role, such as our complaints management and training programs and the newsletters we publish on good decision-making.

Measuring state government agencies' compliance with Directive 13/06

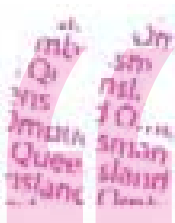
In June 2009, we completed an audit of 38 state government agencies' compliance with *Directive 13/06*, issued in November 2006 by the former Public Service Commissioner.

Directive 13/06 required state agencies to have in place, by November 2007, a complaints management system that addressed the five requirements specified in the Directive, including the requirements to implement an appropriate complaints policy and procedures and a system for recording and reporting on complaints.

Our audit involved reviewing agencies' policies and procedures and also their websites to assess the visibility and accessibility of their complaints management systems. We advised each agency on their level of compliance and made recommendations for improvement.

In February 2010, our report on the audit *Complaints Matter - A review of the complaints management systems of Queensland Government agencies* was tabled in Parliament. Our investigation revealed that most agencies had implemented complaints systems that satisfactorily comply with the Directive and that the remainder will comply with it once they implement our recommendations. (see p.61)

In all, we made more than 300 recommendations to agencies on ways to improve their systems. Agencies responded positively to those recommendations and, in many cases, have already implemented them.



We made
more than 300
recommendations
to agencies on
ways to improve
their systems.



Measuring local councils' compliance with the Local Government Act

During 2009-2010, we completed our audit of 57 local councils' complaints management systems.

The purpose of our audit was to determine the extent of councils' compliance with the General Complaints Process (GCP) requirements in the *Local Government Act 1993* and recognised standards of best practice in complaints management. We also looked at the visibility and accessibility of their complaints systems, and reviewed their annual reports to assess compliance with the complaints reporting requirements.

Our audit found that with one exception all councils had adopted a GCP, however, only 33 councils (58%) had done so by council resolution within the required statutory timeframe. We also found that 44 councils adopted fully or substantially the model GCP developed by the former Department of Local Government, Planning, Sport and Recreation, while 13 councils had developed their own GCPs.

Overall, our audit identified significant areas for improvement particularly with council developed complaints policies and procedures, website visibility and accessibility of the GCP and public reporting on complaints management. We evaluated 27 (47%) council websites as providing limited visibility and 38 (67%) council websites as providing limited accessibility. We also noted that only 19 (33%) councils correctly reported their resolved GCP complaints in 2008-2009.

Significantly, our audit found that councils were dealing with very few complaints under their GCPs. In 2007-2008 and 2008-2009, of the thousands of complaints received by councils right across Queensland, only 138 and 165 respectively were reported by councils as having been dealt with under their GCPs. This is of considerable concern as there are no statutory requirements applicable to complaints dealt with outside of a council's GCP. This is contrary to best practice in complaints management.

As a result of the audit's findings, in February 2010, the Ombudsman made a submission to the Department of Infrastructure and Planning on part 4 of the draft Local Government (Operations) Regulation 2010, which deals with the 'Process for administrative action complaints'.

In the submission, the Ombudsman recommended that the draft regulation take a more flexible, principle-based approach in recognition of the fact that the complaints process of each council needed to be appropriate to its size, resources, location, structure and the nature of services provided, as well as the number and types of complaints it received.

The Ombudsman argued that this would enable councils to deal with all complaints under their official complaints processes.

In May 2010, the Ombudsman made a further submission and recommendations relating to the draft Local Government (Operations) Regulation 2010. The submission also addressed parts of the draft Local Government (Finance, Plans and Reporting) Regulation 2010.

The new regulations were approved by Governor in Council on 17 June 2010 and commenced on 1 July 2010.

Most of the Ombudsman's recommendations were incorporated into the new regulations, the key ones being:

- Councils be granted the discretion to develop and implement GCPs that meet their individual circumstances, as long as they incorporate the recognised principles of good complaints management.
- Councils develop and implement written policy and procedures for their GCP.
- Councils' GCPs should address all types of administrative action complaints and all stages of the complaints handling process.
- Councils resolve complaints in a fair, objective, timely and effective manner.
- Councils inform complainants of the decision on their complaint and the reasons for the decision.
- Councils accept anonymous complaints under their GCPs and provide guidance on how they are to be handled in the GCP policy or procedures.
- Councils report in their annual reports details of their performance in handling complaints under their GCP.



Training agencies to improve complaints handling

In 2009-2010, we continued to deliver Complaints Management Training but split the training into two modules, one for customer service and frontline officers; and the other for internal review officers.

Both modules focus on:

- the reasons people complain
- how to assess complaints
- processes to follow in investigating complaints
- the importance of procedural fairness and other key concepts.

Each training session is customised for the agency and officers attending it and combines best practice theory with practical advice based on the agency's policies and procedures and scenarios drawn from cases we have investigated.

During 2009-2010, we conducted 53 complaints management training sessions, comprising 37 for frontline officers and 16 for internal review officers. Training was delivered to six state government agencies, four councils and two universities and 766 public sector officers took part.

Participating state government agencies and councils are listed in Table 21.

In the year ahead, we will continue to deliver complaints management training and advice to raise the capacity of agencies to appropriately manage complaints.



→ Our training sessions are customised for agencies and officers attending them.

→ **TABLE 21: Agencies that participated in Complaints Management Training in 2009-2010**

Local Councils	Central Highlands Regional Council
	Rockhampton Regional Council
	Tablelands Regional Council
	Toowoomba Regional Council
State Agencies	Department of Communities
	Department of Infrastructure and Planning
	Department of Justice and Attorney-General
	Department of Transport and Main Roads
	Medical Board of Queensland
	Public Trustee of Queensland
Universities	Central Queensland University
	James Cook University

Training for better decision-making

During 2009–2010, our training officers continued to travel throughout Queensland to ensure public sector officers had ready access to our Good Decisions Training regardless of their location. Officers from 10 councils, eight state agencies and two universities participated.

We delivered 67 sessions, which were attended by 1,290 officers. 42 of these were delivered outside of the Brisbane area.

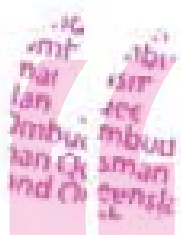
Since 2005, 6,220 officers have taken part in our good decision-making training. The training is suitable for decision-makers at all levels of government and provides a step by step decision-making guide, which they can refer to in their daily work.

Agencies that participated in Good Decisions Training in 2009-2010 are listed in Table 22.

Evaluating our training performance

We continually look at ways to improve our training programs. We do this by obtaining feedback from officers who attend.

Feedback received in 2009-2010 demonstrated that participants continue to highly value the program with 98% saying that the training would help them in their daily work and that they would recommend it to other officers in the public sector.



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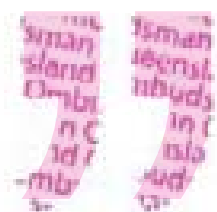


TABLE 22: Agencies that participated in Good Decisions Training in 2009-2010

Local Councils	Brisbane City Council
	Burdekin Shire Council
	Central Highlands Regional Council
	Gold Coast City Council
	Lockyer Valley Regional Council
	Rockhampton Regional Council
	Sunshine Coast Regional Council
	Toowoomba Regional Council
	Townsville City Council
	Western Downs Regional Council
State Agencies	Department of Communities
	Department of Education and Training
	Department of Environment and Resource Management
	Department of Justice and Attorney-General
	Queensland Corrective Services
	Queensland Treasury
	Smart Services Queensland
Universities	Central Queensland University
	James Cook University

Engaging with the public sector and the community

As the role of the Queensland Ombudsman continues to evolve, so does the need for a range of strategies for communicating effectively with the public sector and the community.

The Queensland Ombudsman's commitment to communicating and engaging with the broader community is reflected in the third objective of our *Strategic Plan 2010-2015*, which reads, 'to ensure all sections of the community are aware of and have reasonable access to our services.'

This can be challenging given the diverse and decentralised nature of our population. Our Communication and Research Unit carries out a range of communication activities designed to reach all sections of the community to raise awareness of:

- our investigative and administrative improvement roles, and
- the various options available for making complaints to us, which include our on-line complaint form and the free telephone service for people calling from outside the Brisbane area.



Perspective newsletters

Through our series of *Perspective* newsletters, we provide advice on good decision-making and complaints management to state and local government officers, often using case studies based on our investigations to highlight aspects of both good and bad practices.

Our latest publication is *Corrections Perspective* (pictured left), which is designed specifically for officers in Queensland Corrective Services. It contains useful tips and case studies on good decision-making, record-keeping, and complaints handling in a corrective services context. The first edition was distributed in April 2010 and we intend to publish two editions a year.

These newsletters contribute to fulfilling the second objective in our *Strategic Plan 2010-2015*, which is to 'contribute to improving the quality of administrative practice in Queensland public sector agencies'.

State Perspective and *Local Perspective* are each published three times a year. Online editions were published in August and October 2009, and in April 2010. Hard copies were also distributed to 2,056 officers who attended our training sessions.

Subscription rates for *State* and *Local Perspective* newsletters increased significantly in 2009-2010. *Local Perspective* is currently sent to 532 subscribers, a 26% increase on 2008-2009. *State Perspective* currently has 1,283 subscribers, a 48% increase on the same period in the previous year.

Frontline Perspective, an electronic newsletter published twice a year and issued to frontline officers in call centres, customer service centres and complaints units, was discontinued as a stand-alone publication in 2009-2010 and replaced by a regular column in *State and Local Perspective*. The main reason for this decision was that the majority of subscribers to *Frontline Perspective* also subscribed to either *State* or *Local Perspective*.

We also published the second edition of *Legal Perspective*, which provides information for public sector lawyers, and is also relevant to private lawyers with public sector clients. Like *State* and *Local Perspective*, *Legal Perspective* aims to raise awareness of our role and promotes the message that decisions made in the public sector must not only be lawful but also fair and supported by adequate records. The number of subscriptions for the second edition of *Legal Perspective* was 256, representing an increase of 156% on subscriptions for the first edition. *Legal Perspective* was published in October 2009 and April 2010.

Whistleblower guidelines

During 2009-2010, we continued to collaborate with the Crime and Misconduct Commission and the Public Service Commission to develop a set of guides about public interest disclosures for the Queensland public sector.

The guides draw on the national research from the *Whistling While They Work* project, led by Griffith University, and supported by the Ombudsman as an 'industry partner'.

The guides contain advice for individuals who may be considering making a disclosure, for managers or supervisors who may need to deal with a disclosure, and for every public sector agency that is obliged to have appropriate policies and procedures in place for encouraging and managing disclosures.

All the guides (pictured right), along with an explanatory flyer, are now available on the websites of each of the three agencies involved in their development. They are titled:

- *Blowing the whistle in Queensland*
- *Making a public interest disclosure: a guide for individuals working in the public sector*
- *Handling a public interest disclosure: a guide for public sector managers and supervisors*
- *Managing a public interest disclosure program: a guide for public sector organisations.*

Unreasonable Complainant Conduct Project update

Since 2006, the Offices of the Commonwealth and State Ombudsmen have been jointly participating in the *Unreasonable Complainant Conduct Project*. A key focus of the project has been to develop strategies for dealing with unreasonable complainant conduct, an issue many public sector agencies regularly face.

A Practice Manual and a Project Report were developed during the first stage of the project, which was completed in June 2009.

Australian Ombudsman Offices are now embarking on Stage 2 of the project, which is aimed at developing additional strategies for complaint handlers to make the Practice Manual more relevant to organisations that:

- are required to have ongoing contact with complainants who engage in unreasonable behaviour
- are small or involved in rural or remote service delivery.

With the assistance of the Office of the New South Wales Ombudsman, we conducted a focus group at our premises on 7 May 2010 to obtain insights from officers from public sector agencies with experience in dealing with unreasonable complainant conduct.

In all, representatives from 18 agencies attended the forum, including statutory authorities, local councils, state government departments and a university. Similar forums have been conducted by other Ombudsman offices throughout the country.



Awareness campaigns

During 2009-2010, we continued our campaigns to raise regional awareness of our role and of the various ways of making complaints.

Regional awareness campaigns target areas of the state we consider to be underrepresented in complaints based on data collected by our Assessment and Resolution Team.

In 2009-2010, we targeted the North West and Fitzroy regions via an electronic and print media campaign. We measure the effectiveness of our campaigns quarterly and our analysis of complaint data showed that the number of people who contacted us increased significantly in the targeted areas during and after the campaign.

In conjunction with the electronic and print media campaign for the North West and Fitzroy regions, we also distributed information packs to key access points such as community, legal and health centres, local councils, libraries, universities and TAFEs.

We also continued our relationship with Smart Services Queensland and its network of 77 Queensland Government Agent Program (QGAP) offices around the state. These offices provide a range of government services in rural and remote communities. We regularly provide information to QGAP officers so that they can provide up-to-date information about our services to the public.

In March 2010, we developed and distributed a series of regionally themed posters to QGAP offices, local councils, libraries and community centres to further our goal of ensuring that all Queenslanders have access to information about our Office.

➔ In 2009-2010, we redesigned our marketing material for regional awareness campaigns.

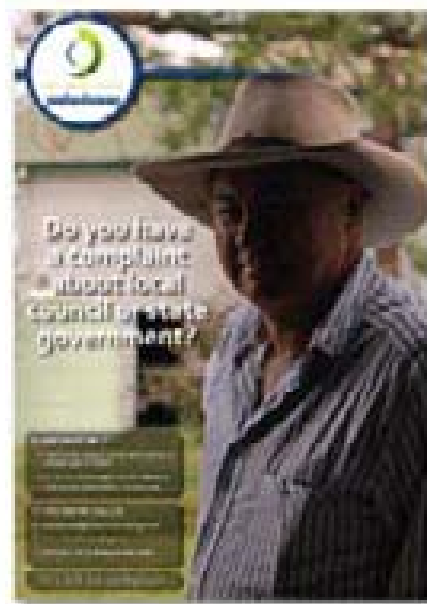
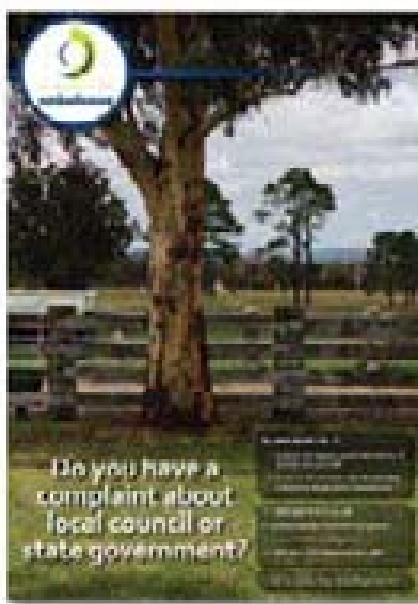
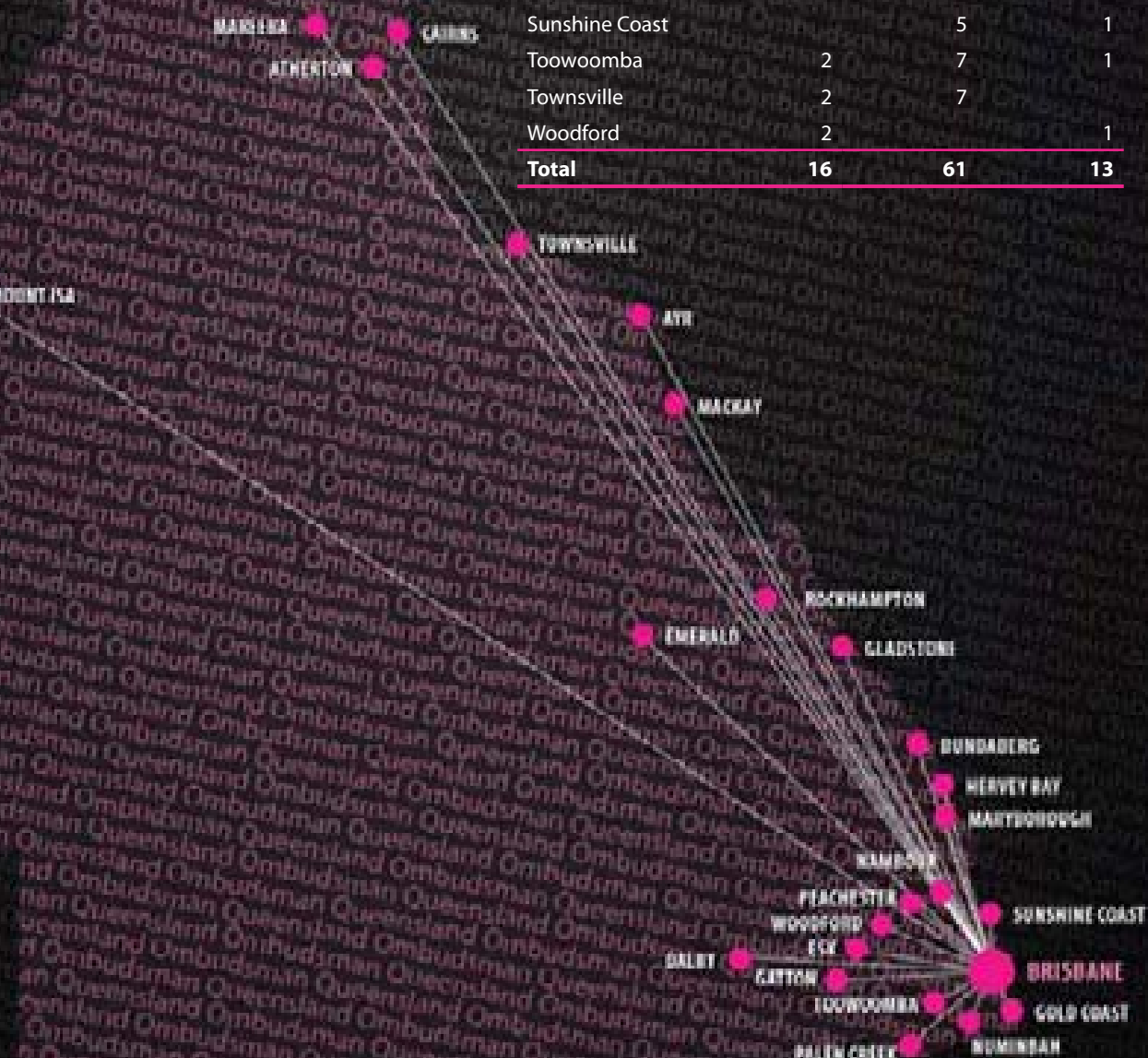




TABLE 23: Regional centres we visited in 2009-2010

Place	Correctional centre visit	Regional training	Investigate complaint
Atherton		4	
Ayr		1	
Bundaberg		1	1
Cairns		5	
Dalby		1	
Emerald		6	
Esk			1
Gatton		1	2
Gold Coast		8	4
Hervey Bay		1	
Mackay		2	
Mareeba	2		
Maryborough	2	1	
Mount Isa		3	
Nambour		1	
Numinbah	2		
Palen Creek	2		
Peachester			1
Rockhampton	2	7	1
Sunshine Coast		5	1
Toowoomba	2	7	1
Townsville	2	7	
Woodford	2		1
Total	16	61	13



Communicating with all Queenslanders

The implementation of our Multicultural Action Plan gained momentum in 2009-2010. The plan was developed to provide a more structured and strategic approach to liaising with multicultural communities in Queensland. It identifies established and emerging multicultural communities and sets out communication objectives.

Three key goals of the plan are to improve:

- awareness of our Office in multicultural communities
- understanding in those communities of how to make a complaint about a public agency
- our skills and capacity to liaise with these communities.

Our activities in 2009-2010 included:

- creating a multicultural resource kit, which included information sheets, magnets and translated brochures
- developing new multicultural information, including posters and brochures
- making contact with a number of multicultural community groups in Queensland.

In the year ahead we will continue to implement the Multicultural Action Plan.

Combined complaints website

A problem that faces many complaint agencies, including our Office, is that they regularly receive complaints they have to refer to other agencies, a process that consumes time and resources. As a strategy to partly address this growing problem, we led the development and launch of the 'It's OK to complain' website -

www.complaints.qld.gov.au - which provides information to potential complainants on the main complaint agencies operating in Queensland and helps them to find the right agency to investigate their complaint in the first instance.

Launched on 13 October 2009, the website outlines the types of complaints each agency deals with and provides their contact details and links to their websites. The website seeks to make complaint agencies more accessible to the community by providing a centralised entry point.

The initiative is a shared one involving our Office and the:

- Anti-Discrimination Commission Queensland
- Commission for Children and Young People and Child Guardian
- Commonwealth Ombudsman
- Crime and Misconduct Commission
- Health Quality and Complaints Commission.

To date, concept development, implementation and production materials have been managed by our Office. However, no activities or developments can occur without the approval of the agencies involved. Costs are shared equally among the participating agencies.



→ The 'It's OK to complain' website provides a one-stop-shop for information about Queensland's main complaint agencies.

Other agencies listed on the website are:

- Financial Ombudsman Service
- Office of Fair Trading Queensland
- Energy Ombudsman Queensland
- Telecommunications Industry Ombudsman
- Superannuation Complaints Tribunal
- Fair Work Ombudsman
- Legal Services Commission Queensland
- Private Health Insurance Ombudsman.

Since its launch, the website has had:

- 4,432 visitors
- 49% direct traffic (that is, people entering **www.complaints.qld.gov.au** into their web browser)
- 2% of site visits referred from our website, **www.ombudsman.qld.gov.au**

The website forms part of a larger public awareness campaign that includes a brochure which has been translated into 15 languages and distributed to more than 1,500 community groups throughout Queensland.

Other communication materials include a media release, community service announcements and a number of feature articles in industry and community publications.

We will continue to work jointly with Queensland complaint agencies to promote the website to all sections of the community in 2010-2011.

Engaging indigenous Queenslanders

The launch of the 'It's OK to complain' website included a regional campaign in October 2009 to bring it to the attention of Aboriginal people and Torres Strait Islanders. Information packs promoting the website were distributed to Local Area Multicultural Partnership (LAMP) officers in regional councils, and to indigenous communities and legal, health and community centres.

A brochure titled 'It's OK to Complain', was translated into 15 languages including Torres Strait Creole, and can be downloaded from the website. The brochure includes information on the main complaint agencies operating in Queensland.

In March 2010, information packs containing a covering letter, posters and brochures were again sent to LAMP officers, and to indigenous communities and legal, health and community centres.

Providing a service for prisoners

The Queensland Ombudsman plays an important role in ensuring that decisions made about prisoners are fair and reasonable. We strive to ensure prisoners in correctional centres are aware of our Office and know how to make a complaint.

The most common methods used by prisoners or prisoner advocates to contact us in 2009-2010 were:

- the Prisoner PhoneLink (50% of complaints about QCS)
- privileged mail (20% of complaints about QCS)
- regular telephone (16% of complaints about QCS).

The Prisoner PhoneLink allows prisoners at each correctional centre to contact us during specified periods each week using a free and confidential service. The privileged mail system within each centre also allows prisoners to communicate with us confidentially. (see p.45)

In 2009-2010, our officers visited each of the 14 correctional centres in the state and undertook further visits to some centres to investigate particular complaints.

We ensured prisoners were aware of the Prisoner PhoneLink, the privileged mail system and visits by arranging with centre management for our posters to be displayed at each centre.

We will continue to ensure our services are widely promoted throughout correctional centres in 2010-2011.



Posters are used to promote our visits within Queensland correctional centres.

Engagement through outreach

In 2009-2010, we engaged with the community to raise awareness of our role.

Reaching out to the homeless

In May 2010, in conjunction with the Commonwealth Ombudsman, we commenced the Roma House Homeless Trial Project, an access program for people residing at Roma House – a 24-hour, intensive support base for homeless men, women and families.

Representatives from our Offices conducted an initial briefing session for case workers at Roma House, at which they provided information about the services and types of complaints we handle.

Following the briefing session, senior investigators from each Office commenced attending Roma House every fortnight for two hours to provide advice on complaints. Initial feedback from the sessions has been positive and we look forward to reporting more fully on the results, including the number of complaints received from homeless people, in our next Annual Report.

Supporting multicultural events

We continued to participate in Aboriginal and Torres Strait Islander events, such as the Family Fun Day at Musgrave Park held as part of National Aboriginal and Islander Day Observance Committee (NAIDOC) Week activities in Brisbane. In the past two years we have shared a stall with the Commonwealth Ombudsman, and will do so again this year as well as with the Anti-Discrimination Commission Queensland, the Crime and Misconduct Commission, the Commission for Children and Young People and Child Guardian, and the Health Quality and Complaints Commission.

In 2009-2010, we also shared a display with the Health Quality and Complaints Commission at the Queensland Multicultural Festival to help increase awareness of our roles among multicultural groups in the community.

Youth outreach activities

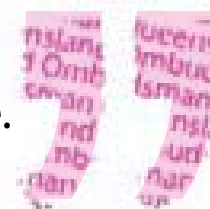
Youth outreach was also a focus for us in 2009-2010. To help raise awareness among young people we attended orientation week activities at Griffith University and the University of Queensland, sharing an information stand with representatives from the Commonwealth Ombudsman. More than 3,000 packs containing information about both Offices were issued to students.

'Complaints matter' bookmarks were also distributed to cooperative bookshops at nine Australian universities. To date, more than 6,000 bookmarks have been distributed and we are monitoring the impact of this activity on the number of complaints made by young people.



➔ University outreach provides an important chance to communicate with young people face-to-face.

In 2009-2010, our engagement with the community again included outreach programs, designed to raise awareness of the Ombudsman's role.



Queensland Ombudsman online

The community's use of our website continues to grow, with complaints received via email (13%) and our online complaints form (12%) now comprise 25% of the total we receive.

Key statistics on use of our website are:

- 54,491 site visits
(up 33% on 2008-2009)
- 220,368 pages viewed on our website
(up 20% on 2008-2009)
- 39,097 visits to our online complaint form
(up 25% on 2008-2009).

We will implement changes identified from this year's website review to ensure that it continues to meet the needs of users.

Complainant Satisfaction Survey

As well as conducting a major survey of complainants every two years (the next one is due in 2010-2011), we obtain feedback from them annually while their recollection of our service is still fresh.

The latest results showed that:

- nine out of 10 complainants seek advice elsewhere before contacting us, usually from the agency the subject of the complaint, or from their councillor or Member of Parliament
- four out of five complainants were able to find our contact details easily
- nine out of 10 complainants who used our website felt that it clearly explained our role, what we can investigate, how to make a complaint and how we handle complaints.

The Complainant Satisfaction Survey allows us to identify areas in which we can improve our services.

Agency survey update

This year, we implemented recommendations arising from our third Agency Survey which evaluated our performance when obtaining documents, conducting inquiries or investigating state government agencies and councils. These recommendations will assist us to improve the processes and interactions we employ with agencies, along with improving our understanding of the usefulness of key publications.

Fostering relationships with other complaint agencies

Our communication officers meet regularly with their counterparts in other independent complaint agencies, namely the:

- Anti-Discrimination Commission Queensland
- Commission for Children and Young People and Child Guardian
- Crime and Misconduct Commission
- Commonwealth Ombudsman
- Health Quality and Complaints Commission.

These meetings provide a forum in which to develop solutions to common communication and engagement challenges facing each agency. The project to create the 'It's OK to Complain' website and the brochure of the same name is a direct outcome of these meetings. So too is our joint participation in Aboriginal and Torres Strait Islander events, such as the Family Fun Day at Musgrave Park held as part of NAIDOC Week activities in Brisbane.

The chief executive officers of the complaint agencies located at 53 Albert Street also meet regularly to discuss management of our shared training and meeting room facilities.

Enhancing public sector relationships

We meet regularly with agencies that generate the highest number of complaints and have established formal liaison agreements with some of them. These arrangements facilitate our preliminary inquiries and investigations, enabling us to finalise complaints more promptly.

During the year, we continued to meet regularly with a number of government agencies including the Chief Inspector, Queensland Corrective Services, the Department of Infrastructure and Planning, the Queensland Audit Office, the Crime and Misconduct Commission and the Department of Communities.



Strengthening global ties

During 2009–2010, we continued liaising with integrity agencies in Australasia and further afield.

Deputy Ombudsman, Forbes Smith, met with delegates from the Official Civil Service Commission in Thailand in July 2009 and with delegates from the Office of the President and Public Service Commission from the Republic of The Gambia in June 2010 to explain the work of our Office. The Gambian delegates were particularly interested in obtaining information on public administration with a view to public sector reform in The Gambia.

In March 2010, Ombudsman, David Bevan, attended the 25th Australasian and Pacific Ombudsman Conference in Canberra and presented a paper on two own initiative investigations into Queensland Corrective Services. (see pp.60–61)

Meetings of Deputy Ombudsmen from Australia and New Zealand are held biannually to share information on current activities and to seek advice about issues of common interest to all offices. Meetings were held in Canberra in November 2009 and in Adelaide in May 2010.

In May 2010, the Deputy Ombudsman attended the Australian and New Zealand Ombudsman Association Conference in Wellington, New Zealand. The conference provided an opportunity to identify new practices and strategies in Ombudsman business, and to network with Ombudsmen from other jurisdictions.



➔ Visit by delegates from the Office of the President and Public Service Commission from the Republic of The Gambia. From left to right, Tito Balboa, Mariama Khan, Gabriel Oseh Bright, Forbes Smith, Omar Sallah and Kay Stoquart.

LOOKING FORWARD: 2010-2011

Compliance	Audit the general complaints processes of local councils and make recommendations to them to improve the effectiveness of their systems Conduct on-site reviews of the complaints management systems of agencies and make recommendations to them to improve the effectiveness of their systems
Training	Deliver at least 100 GDT and CMT training sessions Undertake regular analysis of training and feedback forms to assess satisfaction and identify improvements Promote training for state and local government officers in regional Queensland
Communication strategies	Continue to implement our Multicultural Action Plan to improve communication with Aboriginal and Torres Strait Islander people and culturally and linguistically diverse communities Produce and publish: ➔ three issues of <i>Local and State Perspective</i> ➔ two issues of <i>Legal Perspective</i> and <i>Corrections Perspective</i> Conduct media awareness campaigns to increase community awareness and understanding of our Office in regional Queensland Continue to implement strategies to promote awareness of our role among Aboriginal and Torres Strait Islander people and multicultural communities Promote our Freecall 1800 number outside Brisbane
Inter-agency activities	Work with other complaint agencies to increase community awareness and understanding of our respective roles Continue to promote and maintain the combined It's OK to Complain website Coordinate resources with the ADCQ, HQCC, the CCYPCG, the CMC and the Commonwealth Ombudsman for shared displays at multicultural and other community events
Website	Implement changes to our website to improve its accessibility Implement changes to the online complaint form to improve its useability Launch and promote a case study library on our website

SECTION 4



Our Office

Governance for performance

EFFECTIVE

adjective 1. serving to effect the purpose; producing the intended or expected result.

Our commitment to high standards of corporate governance underpinned all aspects of our performance in 2009-2010.

Our corporate governance framework aims to ensure we:

- meet our statutory responsibilities under the *Ombudsman Act 2001* and other legislation
- improve service delivery through an ongoing quality improvement program
- integrate risk management into organisational activity
- effectively and efficiently manage and report on performance.

We use a range of internal and external accountability measures, the effectiveness of which are evidenced by the achievements highlighted in this report and the unqualified audit report provided by the Auditor-General.

External accountability measures

External bodies and measures ensure the Office's accountability, including:

- Parliamentary Law, Justice and Safety Committee
- Estimates Committee
- External audit conducted by the Queensland Audit Office
- Right to Information/Information Privacy legislation
- *Whistleblowers Protection Act 1994*
- Annual reporting process.

 **TABLE 24: External accountability measures**

Measure	Description	Outcome
Parliamentary Law, Justice and Safety Committee	Monitors and reviews performance and reports to the Legislative Assembly	Accountability, transparency, high performance and compliance with statutory requirements
Estimates Committee	Scrutinises recent and future (planned) financial and non-financial performance	
External audit	Ensures compliance with financial management requirements	
Right to Information/Information Privacy	Ensures proper processes are in place for providing the public with access to documents and for safeguarding the privacy of personal information	
Whistleblower protection	Ensures public interest disclosures are dealt with in accordance with the <i>Whistleblowers Protection Act</i>	
Annual Report	Reports on all significant activities undertaken each financial year	

Parliamentary Law, Justice and Safety Committee

We remain accountable to the community by reporting to the Queensland Legislative Assembly through the Law, Justice and Safety Committee (LJSC). This committee comprises Members of Parliament from government and the opposition.

The LJSC's role is to:

- monitor and review the performance of our Office
- report to the Assembly on any matter concerning the Ombudsman's functions, or the performance of those functions, the LJSC considers should be drawn to the Assembly's attention
- examine our annual report after it has been tabled in the Assembly and comment if appropriate
- report to the Assembly any changes to the functions, structures and procedures of the Office that LJSC considers desirable for the more effective operation of the Ombudsman Act.

The following arrangements are in place to help the LJSC monitor and review our Office:

- the LJSC, the Ombudsman and senior officers meet once a year following the tabling of our annual report (November)
- the Ombudsman provides a written response to questions on notice from the LJSC for discussion at the meeting
- the Ombudsman provides responses to LJSC's requests for information as and when they arise.

Estimates Committee

The Ombudsman attends the annual Parliamentary Estimates Committee Hearing, which represents the last stage of the budget process. The committee examines the Attorney-General and Minister for Industrial Relations based on the information contained in the Service Delivery Statement (SDS) and scrutinises our recent and future (planned) financial and non-financial performance.

External audit

We met the timeframes imposed on government agencies for the preparation of financial reports for 2009-2010.

The audit report and certificate for our financial statements is in section five of this report. The Auditor-General's delegate has provided an unqualified certificate indicating our compliance with financial management requirements and the accuracy and fairness of financial statements.

Right to Information/Information Privacy

We are bound by the *Right to Information Act 2009* and the *Information Privacy Act 2009* both of which became effective on 1 July 2009.

The objective of the Right to Information Act is to provide access to information held by the government, unless on balance it is contrary to the public interest to provide that information.

The Information Privacy Act has two objectives, namely:

- the fair collection and handling in the public sector environment of personal information, and
- a right of access to, and amendment of, personal information in the government's possession or under the government's control unless, on balance, it is contrary to the public interest to give the access or allow the information to be amended.

In 2009-2010, we received 10 right to information applications and five information privacy applications. A full summary of applications received and processed, including their nature and outcomes, can be found in Appendix 3.

Public interest disclosures

Under the Whistleblowers Protection Act, we are required to report on public interest disclosures made to us or entities within our jurisdiction.

In 2009-2010, we received and dealt with 14 public interest disclosures of maladministration by public sector agencies.

Annual Report

Our 2008-2009 annual report was tabled in Parliament on 13 November 2009. The annual report is one of the key vehicles we use to report on our activities as part of our governance framework.

Each year we aim to improve the report's content, readability and format. The Institute of Internal Auditors Association Queensland awarded our 2008-2009 annual report the gold medal for 'Most Readable Annual Report'. This reflects our commitment to reporting our performance and achievements in a clear, simple and user friendly way.

Review of Ombudsman Act

We conducted a comprehensive review of the Ombudsman Act, and made a number of recommendations to the Attorney-General for amendments. The proposed amendments are designed to enhance the Ombudsman's ability to continue to provide an effective complaints management service, as well as assist agencies in improving their administrative practices.

Internal accountability measures

A variety of internal measures also ensures our Office attains its accountability objectives.

Internal accountability mechanisms include:

- Ombudsman Management Group
- Ombudsman Audit Committee
- Internal audit
- Innovation Committee
- Workplace Health and Safety Committee

Ombudsman Management Group

The Ombudsman Management Group (OMG) is our chief decision-making body (see pp.22-23). The OMG sets our Office's corporate plans and ensures our performance satisfies strategic priorities and statutory responsibilities.

The OMG comprises:

- Ombudsman
- Deputy Ombudsman
- Assistant Ombudsman (4)
- Manager, Communication and Research Unit
- Manager, Corporate Services Unit.

Ombudsman Audit Committee

Established in 2009-2010, the Ombudsman Audit Committee provides independent assurance and assistance to the Ombudsman on:

- risk, control and compliance frameworks, and
- external accountability responsibilities as prescribed in the *Financial Accountability Act 2009* and the Financial Accountability Regulation 2009.

The committee provides prompt and constructive advice on its findings directly to the Ombudsman, particularly when issues are identified that could present a material risk or threat to the Office.

It comprises a Head of Internal Audit, a position delegated by the Ombudsman to the Deputy Ombudsman, as well as two external committee members: Mr Gary Smith, CPA and Chair of the Audit Committee; and Mr Pat McCallum, CPA.

Both external committee members have considerable experience serving on government audit committees, as well as financial and management accounting and risk management expertise. The committee is supported by secretariat services provided by the Manager, Corporate Services and the Senior Finance Officer.

The committee does not replace or replicate established management responsibilities and delegations, the responsibilities of other executive management groups within the Office, or the reporting lines and responsibilities of either internal audit or external audit functions.

 **TABLE 25: Internal accountability measures**

Measure	Description	Outcome
Ombudsman Management Group	Our decision-making body, responsible for developing corporate plans and ensuring performance satisfies our strategic priorities and statutory responsibilities	Accountability, transparency, high performance and compliance with statutory requirements
Ombudsman Audit Committee	The role of the committee is to provide independent assurance and assistance to the Ombudsman on: → our risk, control and compliance frameworks → our external accountability responsibilities as prescribed in the Financial Accountability Act and the Financial Accountability Regulation 2009	
Internal audit	The role of the internal auditor (an external accounting firm) is to conduct independent reviews and evaluations of our financial management functions and report findings and recommendations to the Ombudsman.	
Innovation Committee	Provides a forum for staff to put forward proposals for business improvements and better work practices for the Ombudsman's consideration	
Workplace Health and Safety Committee	Ensures the wellbeing and safety of staff	

Internal audit

An Ombudsman approved charter is central to our internal audit process. This charter directs independent auditors and ensures they have unrestricted access to our corporate systems.

This year's internal audit was undertaken by Hayes Knight Queensland Pty Ltd, an auditing firm selected following a competitive tendering process. The internal audit primarily focused on lease contracts, building owner incentives and governance framework surrounding our move to 53 Albert Street in March 2009.

Innovation Committee

The Innovation Committee is a staff-led initiative supported by the Ombudsman, providing the opportunity for staff to propose improvements and develop solutions to improve workplace practices. The committee also provides a forum in which staff and management interact to shape workplace culture.

Managed by staff members, the committee demonstrates our strong commitment to teamwork and consultative processes by enabling staff to directly influence our policies and procedures.

Initially devised as a single committee, an increasing number of staff ideas resulted in the formation of three distinct subcommittees under a steering committee:

- Business, Technology and Outreach Innovation
- People Innovation
- Social Innovation.

The steering committee meets quarterly and comprises the Manager, Communication and Research and four staff representatives. Each subcommittee meets monthly to submit proposals for management's consideration and approval.

Workplace Health and Safety Committee

During 2009-2010, our workplace Health and Safety Committee worked to identify potential workplace hazards and ensure a safe and healthy workplace.

We encourage staff to report any incidents causing or likely to cause injury. In the event of workplace injuries, contributing factors are identified and removed (if possible). We also work with the agencies collocated in our building to improve workplace health and safety.

Identifying and managing risk

Risk management is integral to our decision-making, planning and service delivery. Our risk management framework facilitates the development of an office-wide risk management culture, and assists all staff to implement sound risk management practices to eliminate or minimise potential losses.

Our risk management policy has been developed with reference to the risk management policies of the Queensland Audit Office and the Crime and Misconduct Commission, and in accordance with the Australian/New Zealand Standard for Risk Management (AS/NZS ISO 31000:2009).

We recognise that effective risk management is necessary to meet the governance expectations of our stakeholders and achieve satisfactory financial and operational outcomes.

The implementation of the Ombudsman Audit Committee has strengthened the Office's commitment to risk management by having access to external committee members experienced in managing public sector risk issues. Under their guidance, contemporary risk assessment practices have been implemented thereby strengthening our governance framework.

Public Sector Ethics Act 1994

Section 23 of the *Public Sector Ethics Act 1994* requires public sector agencies to ensure that each annual report includes details of the action taken during the reporting period to comply with various requirements regarding its code of conduct.

We reviewed our *Code of Conduct* during the 2009-2010 year and propose to release a revised version in the 2010-2011 financial year following consultation with staff. A training package has been developed which will be delivered to staff once the new version has been finalised.

Information on our *Code of Conduct* is provided to all new staff during their induction. It is available to all staff in electronic form and is available for inspection by members of the public on our website, as are a number of our procedures. This includes our *Complaints Management Policy* which guides people who wish to complain about a decision made or action taken by one of our staff (including the Ombudsman) in relation to the assessment or investigation of that complaint or any aspect of service provided by this Office or the conduct of an officer.



We encourage staff to report any incidents causing or likely to cause injury.



Internal complaints management system

We are committed to dealing appropriately with any complaints about our staff by undertaking an effective internal review process. We accept both oral and written complaints and provide detailed reasons for review decisions to complainants. We also consider whether the cause of the complaint indicates that we need to improve our business processes.

Our complaints management system

We have implemented a complaints management system (CMS) to manage complaints about us in a fair, objective, timely and effective way.

Our CMS is supported by a written complaints management policy and procedure, complaints database and experienced and trained staff. The policy is consistent with our *Strategic Plan* and *Client Service Charter* and also with *Directive 13/06 Complaints Management Systems*, issued by the former Public Service Commissioner.

The policy applies to:

- any case where a person who has made a complaint to our Office about another agency is dissatisfied with the decision we make or action we take in relation to the assessment or investigation of the original complaint
- any aspect of service provided by our Office
- the conduct of an officer.

Operation of the CMS

Information about our CMS including the complaints management policy is available on our website under 'About us - Complaints about us'. Complaints can be made by any method including by utilising the dedicated email address on our website titled 'Request an internal review'. The process for dealing with complaints is detailed in the *Office's Procedure for Review of Complaints*.

Complaints are broadly categorised and recorded as being either about service delivery or investigation outcomes.

A service delivery complaint is about any aspect of service that we provide, including office procedures and the actions of staff members (e.g. lack of courtesy or timeliness). Our *Client Service Charter* and *Code of Conduct* set out the levels of service and conduct standards members of the public can expect when dealing with our Office. Wherever possible, we seek to deal with service delivery complaints at the first point of contact. If a complaint relates to the behaviour or competency of an officer or our initial attempt to resolve the complaint is unsuccessful, the matter will be referred to the relevant supervisor who will determine the appropriate response.



TABLE 26: Number of complaints about investigative outcomes

	08-09	09-10
Complaints outstanding (from previous year)	13	6
Complaints received	32	44
Complaints finalised	39	29
Complaints outstanding (at end of financial year)	6	21

A complaint about an investigation outcome is a complaint about any aspect of the investigation process and outcome including whether:

- the assessment and investigative process adequately addressed the issues
- the decision was correct in the circumstances
- the decision was properly explained.

These complaints are dealt with in accordance with their urgency and unless the Ombudsman otherwise directs, a complaint will be reviewed once only. Reviews are conducted by an officer who is no less senior than the original decision-maker. In practice, most reviews are conducted by the Deputy Ombudsman.

Complaints reporting and analysis

Under the policy, a review of a complaint may result in:

- the original decision being confirmed, revoked or amended
- the original investigation being reopened
- a better explanation being given to the complainant for the original decision
- an apology or some other remedy being offered to the complainant.

Of the 29 complaints finalised during 2009-2010, the internal review confirmed the original decision in 28 cases and overturned the original decision in one case. The outcomes of each internal review are reported to the original decision-maker with appropriate comment aimed at preventing a repetition of any error or unsatisfactory service that may have occurred or at improving systems or procedures.

There were no significant systemic improvements identified or implemented during the year as a result of any of our reviews because most complaints involved factual disputes or differences of opinions about the significance of particular evidence.

Monitoring effectiveness of the CMS

The Office's case management system is used to identify complaint trends and potential system improvements. The Deputy Ombudsman reports to the Ombudsman on any problems encountered with the policy and procedures and suggests appropriate amendments.

The operation of our *Complaints Management Policy* and the associated procedures for review of complaints is reviewed every 12 months. As part of that review, we consider how we can better use our case management system to improve how we handle complaints we receive.

Compliance and transparency

Shared service provision

We continued working with our shared service provider, the Queensland Parliamentary Service, to deliver some key aspects of our human resource functions. Regular meetings to review the way services were being provided resulted in improvements to streamline the process.

Purchasing and tendering

We continued to comply with the *State Procurement Policy* in 2009-2010 and consistently applied a transparent methodology with a view to:

- advancing our priorities
- obtaining value for money, and
- purchasing with probity and accountability.

Our *Corporate Procurement Plan*, which links procurement to our *Strategic Plan*, ensures our expenditure of public funds occurs in a strategic and planned manner.

→ **TABLE 27: External consultants engaged in 2009-2010**

Vendor	Purpose	Amount
Mercer	Job evaluations	\$1,575
The Consultancy Bureau	Workplace investigation	\$5,200
Focus@Work	Workplace investigation	\$5,400
Workplace Business	Workplace investigation	\$2,500
Fieldwork	Complainant Satisfaction Survey	\$8,424.50
Total		\$23,099.50

→ **TABLE 28: External contractors engaged in 2009-2010**

Vendor	Purpose	Amount
Protocol 1	ICT support	\$27,781.82
PipeNetworks	Fibre optic cable connection	\$23,100
Miss Organisation	Transcription services	\$5,151
Qld Parliamentary Service	Shared service provider expenses	\$58,756.36
Dept. of Justice and Attorney-General	Industrial relations advice	\$4,967.54
Interlock	Employee assistance service	\$305
Commission for Children and Young People and Child Guardian	Project team salary for relocation project	\$3,324.13
University of Queensland	Translation of <i>It's OK to Complain</i> brochures	\$4,022.73
Absolute Translations	Translation services	\$120
Hayes Knight Qld	Special audit report	\$870
Ford Health Group	Wellness program	\$501.01
Chris Pearce	Editing and proofreading	\$1,014
Australian Multilingual Services	Editing and proofreading	\$204.55
Translation and Interpreting Services	Telephone interpreters	\$686.60
Total		\$130,804.74

Our people

Our Office is dedicated to providing the best working environment for our diverse staff of lawyers, investigators, auditors, trainers, communication and research specialists, and administrators. Our working conditions are comparable to the Queensland Public Service, including enterprise bargaining, and we adhere to government policies on equal employment opportunity and workplace health and safety.

Additionally, we provide training opportunities, avenues for regular internal communication, and various mechanisms for staff to have their concerns heard by senior management.

In 2009–2010, we experienced a 7% decrease in staff. The number of staff as at 30 June 2010 was 53.1, expressed as all Queensland Ombudsman staff working in a part-time and/or full-time capacity.

Executive remuneration

Our executive structure consists of the Ombudsman and the Deputy Ombudsman whose remuneration is shown in the table below.

The superannuable salary ranges do not include allowances, leave loading or fringe benefits such as private use of motor vehicle and employer superannuation contributions.

Our Office is dedicated to providing the best working environment for our diverse staff of lawyers, investigators, auditors, trainers, communication and research specialists, and administrators.

 **TABLE 29: Executive remuneration**

Position	Number	Superannuable salary -\$p.a. Min	Superannuable salary -\$p.a. Max
Ombudsman	1	\$184,559	\$251,588
Deputy Ombudsman	1	\$148,484	\$172,789

➔ **TABLE 30: Staff retention and separation**

	2006-2007	2007-2008	2008-2009	2009-2010
Staff at beginning of year	50.8	51.2	55.6	57.1
Losses	11.6	9	13.5	8
Gains	12	13.4	15	4
Net staff at 30 June 2010	51.2	55.6	57.1	53.1

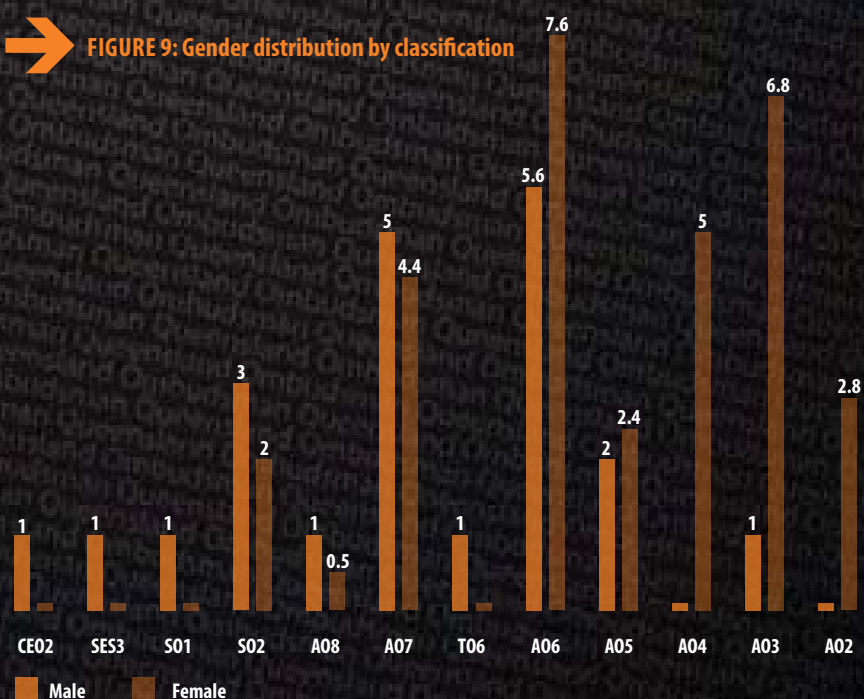
4 new staff members
joined the Office
during 2009-2010

➔ **FIGURE 8: Profile of our workforce**



59% of our staff are involved in assessment and investigation

➔ **FIGURE 9: Gender distribution by classification**



59% of our staff are women



➔ Staff achievement is recognised through our annual Staff Awards and Recognition program.

Enterprise Agreement update

We undertook a review of staff terms and conditions to bring them into line with those applicable to officers of the Queensland public service, subject to the overriding requirement of operational independence. Consultation on the proposed changes took place with our staff, the Queensland Public Sector Union and the Public Service Commission. The proposed changes have been submitted to the Attorney-General and Minister for Industrial Relations for approval by the Governor in Council.

On 1 August 2009, our new Enterprise Agreement commenced. Negotiated with the Queensland Public Sector Union, this Agreement reflects the same terms and conditions as those presented by the Core Enterprise Bargaining Agreement covering the majority of the public sector. The following pay rises were successfully negotiated for staff:

- ➔ 4.5% payable on 1 August 2009
- ➔ 4% payable on 1 August 2010
- ➔ 4% payable on 1 August 2011.

The salaries of the Ombudsman, Deputy Ombudsman and senior officers were also increased in line with increases negotiated for positions of similar level across the majority of the public sector:

- ➔ 2.5% payable on 1 July 2009
- ➔ 2.5% payable on 1 July 2010
- ➔ 2.5% payable on 1 July 2011.

Maximising staff capability

Our officers have access to a range of opportunities to enhance their professional and personal development. These are outlined in our Workforce Capability Strategy, which identifies the core competencies all staff must possess to perform their duties effectively as well as the special needs of officers in each occupational stream.

Training

In 2009-2010, we spent approximately \$50,483 on professional development and related activities, representing 1% of our total staffing budget.

Staff training

As mentioned in last year's report, the most significant training program undertaken this financial year was once again the Certificate IV in Government (Investigations). This program, delivered by officers of the Queensland Police Academy, commenced in 2008-2009, with an 18 month timeframe for completion. At the time of printing this report, 40% of participants had completed it, with the remainder expected to complete it shortly.

Staff also undertook training in the operation of the new Right to Information Act and the Information Privacy Act. This training will enhance their ability to manage any applications made under the new legislation.

OMG training

The OMG participated in executive management training in the first half of 2010. The training focused on developing their leadership, communication and coaching skills.

Sustaining a healthy workforce

Our Corporate Health and Wellness Program continues to promote staff awareness of key health issues. This year, we again surveyed staff to determine their health priorities so the program can be tailored to meet their needs.

During 2009-2010, the program delivered:

- ➔ glucose, cholesterol and biometric screenings
- ➔ flu vaccinations
- ➔ ergonomic and workstation assessments.

Recognising staff achievements

In October 2009, we held our fifth annual Staff Awards and Recognition ceremony.

These awards recognise outstanding contributions made by our staff. Candidates are peer nominated and then assessed by a committee that makes recommendations on successful nominees to the Ombudsman.

The awards were presented by the Chair of the Law, Justice and Safety Committee, Ms Barbara Stone MP. Award recipients were:

Leadership

- Shaun Gordon, Manager, Corporate Services Unit

Innovation or Improvement

- **Individual:** Tess Wethereld, Project Officer (e-communications), Communication and Research Unit
- **Team:** Innovation Committee

Client Service or Satisfaction

- Sharon Stewart, Systems Administrator, Corporate Services Unit

Outstanding Teamwork

- **Individual:** Cassandra Brown, Support Officer, Community Services and Corrections Team
- **Team:** Communication and Research Unit

Ombudsman Award for Excellence

- Shaun Gordon, Manager, Corporate Services Unit

Managing information and technology

During 2009-2010, our case management system was upgraded. This upgrade required a substantial amount of work that would allow further upgrades to be made free of charge and with minimal disruption to our internal systems.

At the time of printing this report, plans are well underway to replace our desktop computers and servers, as well as an upgrade to Windows 7 and Office 2010. It is anticipated this project will enhance our information technology needs over the next five years.

LOOKING FORWARD: 2010-2011

Corporate governance	Work with the Ombudsman Audit Committee to ensure ongoing compliance with governance requirements
Workforce development	Fund and encourage officers to complete the Certificate IV in Government (Investigations) Provide training and development for officers on informal resolution and mediation Continue to provide all staff with professional development and training opportunities
Workplace culture	Encourage staff to contribute to the Innovation Committee and continue to support the work of the committee Conduct a survey to measure the effectiveness of our processes of referring people to appropriate complaints agencies if their complaint is not within our jurisdiction Implement improvements identified from the Complainant Satisfaction Survey and the survey of liaison and other officers we deal with in public agencies about our performance
Resourcing	Replace desktop computers and servers and upgrade operating platform to Windows 7 and Office 2010 Update our case management system to inform our business processes

“

We also perform another important function of recommending changes to agencies' procedures and practices to improve the quality and fairness of their decision-making.

It is this blend of functions and our independence from executive government that make our Office such an effective catalyst for positive change in the public sector.

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CONTENTS

Our finances

Our finances

CREDIBLE

adjective 1. capable of being believed; believable. 2. worthy of belief or confidence; trustworthy.

Managing our budget

In 2009-2010, our operational budget totalled \$7.049 million, representing a 0.6% increase from the previous year.

The increase in budget was largely due to a carry over surplus from the previous year's budget, including residual funding associated with our move to 53 Albert Street.

In 2009-2010, we again met all of our agreed outputs while ending the year with a small surplus of \$15,000.

Where our money comes from

We receive the majority of our funding via direct appropriation from Queensland Treasury. We also generate revenue from our training programs that are offered to agencies on a partial cost-recovery basis. These funds are used primarily for air fares and accommodation for our trainers who travel to regional centres, and the production of workbooks and training material.



FIGURE 11: Annual budget

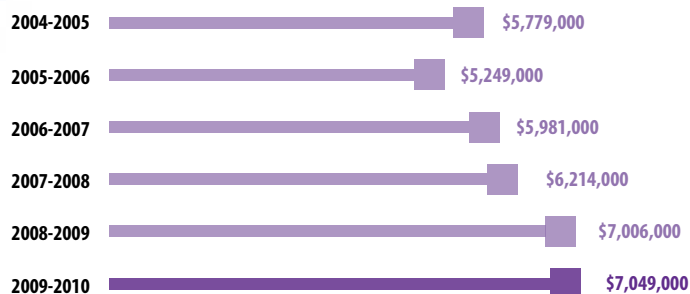
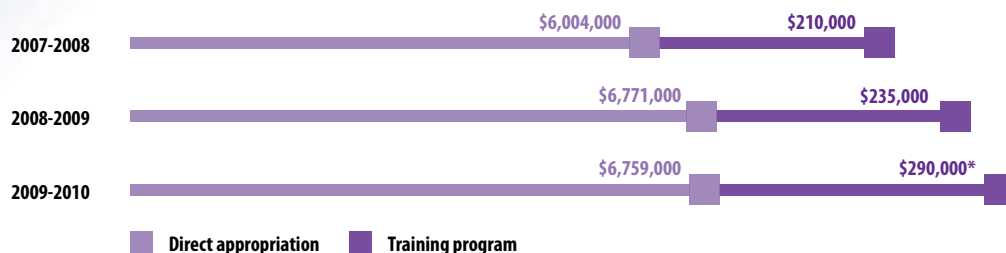


FIGURE 10: Revenue sources



* Note – Training program amount also includes revenue generated by the provision of reception services for other collocation agencies, and revenue from training rooms.

Where we spend our money

We provide a complaint service for the Queensland public and administrative improvement services to public sector agencies. A large part of our costs in delivering these services is made up of employee expenses, which increased by \$0.206 million to \$5.355 million. We spent \$7.034 million during 2009-2010.

What we own

Unlike other larger government departments, we do not have many assets of significant value. At the end of the 2009-2010 year, our assets totalled \$2.275 million comprising:

- furniture and equipment \$1.661 million
- receivables \$0.219 million
- cash at bank \$0.395 million.

What we owe

Our liabilities for 2009-2010 amounted to \$1.443 million, which includes \$0.320 million in accounts payable to our suppliers, and \$0.133 million owing to the Crown and our employees for salary and recreation leave entitlements. We also have a provision for the unearned portion of the building owner's incentive (associated with the construction and fit-out of our premises at 53 Albert Street), which is being amortised over a period of ten years of \$0.990 million.

 **TABLE 31: Budget vs Actual**

	Budget 2009-2010 \$,000	Actual 2009-2010 \$,000	Variance \$,000
Material variances			
<i>Income Statement</i>			
User Charges	200	290	90
Supplies & services	1,170	1,391	(221)
Operating Surplus/(Deficit)	0	15	15
<i>Balance Sheet</i>			
Cash assets	615	395	(220)
Receivables	82	181	(99)
Payables	391	329	62
Employee benefit Obligations	112	132	(20)
Capital/Contributed Equity	0	(228)	(228)

User charges

The increase in user charges was due to the following factors:

- Delivery of more Good Decisions and Complaints Management Training sessions than anticipated.
- Income derived from the performance of reception duties on behalf of other government agencies.
- Income derived from the supply of training and meeting rooms for rent by other government agencies.

Supplies and services

The increase in the actual amount of supplies and services mainly relates to the expenditure associated with new information technology equipment such as servers and replacement of all desktop computers. Other items contributing to the higher than budgeted amount for supplies and services include additional telecommunications costs.

Operating surplus (deficit)

We recorded a small surplus as a result of additional revenue generated from our training program.

Cash assets

The decrease is due to an equity withdrawal of \$228,000.

Receivables

The increase is due to the higher than expected long service leave and recreation leave payments due from Treasury, as well as higher than expected sales related to our training program.

Payables

The decrease in payables is due to lower than anticipated purchasing towards the end of the 2009-2010 year.

Employee benefit obligations

The increase in employee benefit obligations is associated with higher employee expenses.

Capital/contributed equity

During 2009-2010, we requested an equity to output swap of \$228,000 because of higher employee expenses.

Financial statements

These financial statements cover the Office of the Queensland Ombudsman.

The Queensland Ombudsman is an independent officer of the Parliament appointed by the Governor in Council to review complaints received from the public in respect of the administrative performance of public sector agencies. The scope and powers of the Ombudsman are incorporated in the *Ombudsman Act 2001*.

The Office is controlled by the State of Queensland which is the ultimate parent.

The head office and principal place of business is: 53 Albert Street, Brisbane.

A description of the nature of the Ombudsman's operations and principal activities is included in the notes to the financial statements.

For information in relation to the Office's financial statements please call Richard Rubendra, Manager Corporate Services, on 30057007 or email rrubendra@ombudsman.qld.gov.au or visit the Ombudsman's website at www.ombudsman.qld.gov.au

Amounts shown in these financial statements may not add to the correct sub-totals or totals due to rounding.



Statement of comprehensive income for the year ended 30 June 2010

	Notes	2010 \$'000	2009 \$'000
Income from continuing operations			
<i>Revenue</i>			
Departmental services revenue	2	6,759	6,771
User charges	3	290	235
Total income from continuing operations		7,049	7,006
Expenses from continuing operations			
Employee expenses	4	5,355	5,149
Supplies and services	5	1,391	1,756
Depreciation and amortisation	6	240	51
Other expenses	7	48	50
Total expenses from continuing operations		7,034	7,006
Operating result from continuing operations		15	-
Total other comprehensive income		-	-
Total comprehensive income		15	-

The accompanying notes form part of these statements.



➔ Statement of financial position as at 30 June 2010

	Notes	2010 \$'000	2009 \$'000
Current assets			
Cash and cash equivalents	8	395	352
Receivables	9	181	216
Other	10	38	62
Total current assets		614	630
Non current assets			
Intangible assets	11	43	49
Property, plant and equipment	12	1,618	1,176
Total non current assets		1,661	1,765
Total assets		2,275	2,395
Current liabilities			
Payables	13	320	123
Accrued employee benefits	14	133	127
Other	15	110	110
Total current liabilities		563	360
Non current liabilities			
Other	15	880	990
Total non current liabilities		880	990
Total liabilities		1,443	1,350
Net assets		832	1,045
Equity			
Contributed equity		880	1,108
Accumulated surplus		(48)	(63)
Total equity		832	1,045

The accompanying notes form part of these statements.


Statement of changes in equity for year ended 30 June 2010

		Accumulated surpluses		Contributed equity		Total	
	Notes	2010 \$'000	2009 \$'000	2010 \$'000	2009 \$'000	2010 \$'000	2009 \$'000
Balance as at 1 July		(63)	(63)	1,108	204	1,045	141
Operating result from continuing operations		15	-	-	-	15	-
Transactions with owners as owners:							
- Appropriated equity (withdrawal) / injection	2	-	-	(228)	904	(228)	904
Balance as at 30 June		(48)	(63)	880	1,108	832	1,045

The accompanying notes form part of these statements.



➔ Statement of cash flows for year ended 30 June 2010

	Notes	2010 \$'000	2009 \$'000
Cash flows from operating activities			
<i>Inflows:</i>			
Departmental service receipts		6,759	6,801
User charges		288	233
GST input tax credits from ATO		305	140
GST collected from customers		35	38
<i>Outflows:</i>			
Employee expenses		(5,372)	(5,539)
Supplies and services		(1,382)	(1,718)
GST paid to suppliers		(231)	(205)
GST remitted to ATO		(33)	(37)
Other			(55)
Net cash provided by /(used in) operating activities	16	369	(342)
Cash flows from investing activities			
<i>Inflows:</i>			
<i>Outflows:</i>			
Payments for plant and equipment		(98)	(689)
Net cash provided by /(used in) investing activities		(98)	(689)
Cash flows from financing activities			
<i>Inflows:</i>			
Equity injections		-	904
<i>Outflows:</i>			
Equity withdrawal		(228)	-
Net cash provided by /(used in) financing activities		(228)	904
Net increase /(decrease) in cash and cash equivalents		43	(127)
Cash and cash equivalents at beginning of the financial year		352	479
Cash and cash equivalents at end of the financial year	8	395	352

The accompanying notes form part of these statements.





Notes to and forming part of the financial statements

Objectives and principal activities of the Office

- **Administrative justice** – to achieve administrative justice for members of the community in their dealings with state and local government agencies;
- **Improved public administration** – to make a significant contribution to improving the quality of administrative practice in agencies;
- **Public awareness and access** – to ensure that there is a high level of community awareness of the ombudsman's services and that these services can be readily accessed by all;
- **Progressive client focussed organisation** – to ensure that the office exhibits best practice in the performance of its functions and is a progressive and responsive organisation.

The Office of the Queensland Ombudsman is funded for the services it delivers principally by parliamentary appropriations. It also provides training programs on a fee for service basis.

Note 1: Summary of significant accounting policies

Note 2: Reconciliation of payments from consolidated fund to departmental services revenue recognised in statement of comprehensive income
Reconciliation of payments from consolidated fund to equity adjusted recognised in contributed equity

Note 3: User charges

Note 4: Employee expenses

Note 5: Supplies and services

Note 6: Depreciation and amortisation

Note 7: Other expenses

Note 8: Cash and cash equivalents

Note 9: Receivables

Note 10: Other current assets

Note 11: Intangible assets

Note 12: Plant and equipment

Note 13: Payables

Note 14: Accrued employee benefits

Note 15: Other liabilities

Note 16: Reconciliation of operating surplus to net cash from operating activities

Note 17: Commitments for expenditure

Note 18: Contingencies

Note 19: Events occurring after balance date

Note 20: Financial instruments

1. Summary of significant accounting policies

(a) Statement of compliance

The Office of the Queensland Ombudsman has prepared these financial statements in compliance with section 42 of the *Financial and Performance Management Standard 2009*.

These financial statements are general purpose financial statements, and have been prepared on an accrual basis in accordance with Australian Accounting Standards and Interpretations. In addition, the financial statements comply with Treasury's Minimum Reporting Requirements for the year ended 30 June 2010, and other authoritative pronouncements.

With respect to compliance with Australian Accounting Standards and Interpretations, the Office of the Queensland Ombudsman has applied those requirements applicable to not-for-profit entities, as the Office of the Queensland Ombudsman is a not-for-profit organisation. Except where stated, the historical cost convention is used.

(b) The reporting entity

The financial statements include the value of all revenues, expenses, assets, liabilities and equity of the Office of the Queensland Ombudsman. There are no controlled entities.

A Statement of Comprehensive Income for Major Departmental Services has not been prepared as the department is a single service entity.

A Statement of Comprehensive Income for Administered Expenses and Revenues has not been prepared as there were no administered expenses or revenues for the year.

There are no administered transactions and balances that relate to the Office of the Queensland Ombudsman.

(c) Departmental services revenue

Appropriations provided under the Annual Appropriation Act are recognised as revenue in the reporting period in which the revenue is received.

(d) User charges, taxes, penalties and fines

User charges and fees controlled by the Office of the Queensland Ombudsman are recognised as revenues when the revenue has been earned and can be measured reliably with a sufficient degree of certainty. This involves either invoicing for related goods/services and/or the recognition of accrued revenue. User charges and fees are controlled by the Office of the Queensland Ombudsman where they can be deployed for the achievement of its objectives.



➔ Notes to and forming part of the financial statements

1. Summary of significant accounting policies (continued)

(e) Cash and cash equivalents

For the purposes of the Statement of Financial Position and the Statement of Cash Flows, cash assets includes all cash and cheques receipted but not banked at 30 June and also include available franking machine credit.

(f) Receivables

Trade debtors are recognised at the amounts due at the time of sale or service delivery i.e. the agreed purchase/contract price. Settlement of these amounts is required within 30 days from invoice date.

The collectability of receivables is assessed periodically with provision being made for impairment. All known bad debts were written off as at 30 June 2010.

Other debtors generally arise from transactions outside the usual operating activities of the Office and are recognised at their assessed values. Terms are for a maximum of three months, no interest is charged and no security is obtained.

(g) Acquisition of assets

Actual cost is used for the initial recording of all non-current physical and intangible asset acquisitions. Cost is determined as the value given as consideration plus costs incidental to the acquisition, including all other costs incurred in getting the assets ready for use, including architects' fees and engineering design fees. However, any training costs are expensed as incurred.

Where assets are received free of charge from another Queensland department (whether as a result of a machinery-of-Government or other involuntary transfer), the acquisition cost is recognised as the gross carrying amount in the books of the transferor immediately prior to the transfer together with any accumulated depreciation.

Assets acquired at no cost or for nominal consideration, other than from an involuntary transfer from another Queensland Government entity, are recognised at their fair value at date of acquisition in accordance with AASB 116 *Property, Plant and Equipment*.

(h) Plant and equipment

Items of plant and equipment with a cost, or other value, equal to or in excess of \$5,000 are recognised for financial reporting purposes in the year of acquisition.

Items with a lesser value are expensed in the year of acquisition.

(i) Revaluation of non-current physical assets

Plant and equipment is measured at cost in accordance with Treasury's Non-Current Asset Policies.

Separately identified components of assets are measured on the same basis as the assets to which they relate.

(j) Intangibles

Intangible assets with a cost or other value equal to or greater than \$100,000 are recognised in the financial statements, items with a lesser value being expensed.

It has been determined that there is not an active market for any of the Office's intangible assets. As such, the assets are recognised and carried at cost less accumulated amortisation and accumulated impairment losses.

Internally generated software

Expenditure on research activities relating to internally-generated intangible assets is recognised as an expense in the period in which it is incurred.

Costs associated with the development of computer software have been capitalised and are amortised on a straight-line basis over the period of expected benefit to the Office, namely 5 years.

(k) Amortisation and depreciation of intangibles and plant and equipment

Plant and equipment is depreciated on a straight-line basis so as to allocate the net cost or revalued amount of each asset, less its estimated residual value, progressively over its estimated useful life to the Office.

Any expenditure that increases the originally assessed capacity or service potential of an asset is capitalised and the new depreciable amount is depreciated over the remaining useful life of the asset to the Office.

The depreciable amount of leasehold improvements is allocated progressively over the estimated useful lives of the improvements or the unexpired period of the lease, whichever is the shorter. The unexpired period of leases includes any option period where exercise of the option is probable.

Items comprising the Office's technical library are expensed on acquisition.

All intangible assets of the Office have finite useful lives and are amortised on a straight line basis.



Notes to and forming part of the financial statements

1. Summary of significant accounting policies (continued)

For each class of depreciable asset the following depreciation and amortisation rates were used:

Class	Rate %
<i>Plant and equipment</i>	
Computer equipment	33.3
Office equipment	33.3
Office furniture and fit out	10.0
<i>Intangibles</i>	
Software purchased	33.3

(l) Impairment of non-current assets

All non-current physical and intangible assets are assessed for indicators of impairment on an annual basis. If an indicator of possible impairment exists, the Office determines the asset's recoverable amount. Any amount by which the asset's carrying amount exceeds the recoverable amount is recorded as an impairment loss.

The asset's recoverable amount is determined as the higher of the asset's fair value less costs to sell and depreciated replacement cost.

An impairment loss is recognised immediately in the Statement of Comprehensive Income, unless the asset is carried at a revalued amount. When the asset is measured at a revalued amount, the impairment loss is offset against the asset revaluation surplus of the relevant class to the extent available.

Where an impairment loss subsequently reverses, the carrying amount of the asset is increased to the revised estimate of its recoverable amount, but so that the increased carrying amount does not exceed the carrying amount that would have been determined had no impairment loss been recognised for the asset in prior years. A reversal of an impairment loss is recognised as income, unless the asset is carried at a revalued amount, in which case the reversal of the impairment loss is treated as a revaluation increase. Refer also note 1 (i).

(m) Leases

Operating lease payments are representative of the pattern of benefits derived from the leased assets and are expensed in the periods in which they are incurred.

Incentives received on entering into operating leases are recognised as liabilities. Lease payments are allocated between rental expense and reduction of the liability.

(n) Payables

Trade creditors are recognised upon receipt of the goods or services ordered and are measured at the agreed purchase/contract price, gross of applicable trade and other discounts. Amounts owing are unsecured and are generally settled on 30 day terms.

(o) Financial instruments

Recognition

Financial assets and financial liabilities are recognised in the Statement of Financial Position when the Office becomes party to the contractual provisions of the financial instrument.

Classification

Financial instruments are classified and measured as follows:

- cash and cash equivalents - held at fair value through profit and loss
- receivables - held at amortised cost
- payables - held at amortised cost

The Office does not enter transactions for speculative purposes, nor for hedging. Apart from cash and cash equivalents, the Office holds no financial assets classified at fair value through profit and loss.

All other disclosures relating to the measurement and financial risk management of financial instruments held by the Office are included in note 20.

(p) Employee benefits

Employer superannuation contributions, annual leave levies and long service leave levies are regarded as employee benefits.

Payroll tax and workers' compensation insurance are a consequence of employing employees, but are not counted in an employee's total remuneration package. They are not employee benefits and are recognised separately as employee related expenses.

Wages, salaries and sick leave

Wages and salaries due but unpaid at reporting date are recognised in the Statement of Financial Position at the current salary rates.

For unpaid entitlements expected to be paid within 12 months, the liabilities are recognised at their undiscounted values. Entitlements not expected to be paid within 12 months are classified as non-current liabilities and recognised at their present value, calculated using yields on Fixed Rate Commonwealth Government bonds of similar maturity, after projecting the remuneration rates expected to apply at the time of likely settlement.



Notes to and forming part of the financial statements

1. Summary of significant accounting policies (continued)

Prior history indicates that on average, sick leave taken each reporting period is less than the entitlement accrued. This is expected to continue in future periods. Accordingly, it is unlikely that existing accumulated entitlements will be used by employees and no liability for unused sick leave entitlements is recognised. As sick leave is non-vesting, an expense is recognised for this leave as it is taken.

Annual leave

The Queensland Government's Annual Leave Central Scheme (ALCS) became operational on 30 June 2008 for departments, commercialised business units and shared service providers. Under this scheme, a levy is made on the Office to cover the cost of employees' annual leave (including leave loading and on-costs). The levies are expensed in the period in which they are payable. Amounts paid to employees for annual leave are claimed from the scheme quarterly in arrears.

From 1 July 2009, no provision for annual leave will be recognised in the Office's financial statements, the liability being held on a whole-of-Government basis and reported in those financial statements pursuant to AASB 1049 *Whole of Government and General Government Sector Financial Reporting*.

Long service leave

Under the Queensland Government's long service leave scheme, a levy is made on the Office to cover the cost of employees' long service leave. The levies are expensed in the period in which they are payable. Amounts paid to employees for long service leave are claimed from the scheme quarterly in arrears.

No provision for long service leave is recognised in the Office's financial statements, the liability being held on a whole-of-government basis and reported in those financial statements pursuant to AASB 1049 *Whole of Government and General Government Sector Financial Reporting*.

Superannuation

Employer superannuation contributions are paid to QSuper, the superannuation plan for Queensland Government employees, at rates determined by the Treasurer on the advice of the State Actuary. Contributions are expensed in the period in which they are paid or payable. The Office's obligation is limited to its contribution to QSuper.

Therefore no liability is recognised for accruing superannuation benefits in these financial statements, the liability being held on a whole-of-Government basis and reported in the financial statements prepared pursuant to AASB 1049 *Whole of Government and General Government Sector Financial Reporting*.

Executive remuneration

The executive remuneration disclosures in the employee expenses note (Note 4) in the financial statements include:

- the aggregate remuneration of all senior executive officers (including the Chief Executive Officer) whose remuneration for the financial year is \$100,000 or more; and
- the number of senior executives whose total remuneration for the financial year falls within each successive \$20,000 band, commencing at \$100,000.

The remuneration disclosed is all remuneration paid or payable, directly or indirectly, by the Office or any related party in connection with the management of the affairs of the Office, whether as an executive or otherwise. For this purpose, remuneration includes:

- wages and salaries;
- accrued leave (that is, the increase/decrease in the amount of annual and long service leave owed to an executive, inclusive of any increase in the value of leave balances as a result of salary rate increases or the like);
- accrued superannuation (being the value of all employer superannuation contributions during the financial year, both paid and payable as at 30 June);
- car parking benefits and the cost of motor vehicles, such as lease payments, fuel costs, registration/insurance, and repairs/maintenance, and fringe benefits tax on motor vehicles incurred by the agency during the financial year, both paid and payable as at 30 June, net of any amounts subsequently reimbursed by the executives;
- fringe benefits tax included in remuneration agreements.

The disclosures apply to all senior executives appointed under the *Public Service Act 2008* classified as SES1 and above, with remuneration above \$100,000 in the financial year. 'Remuneration' means any money, consideration or benefit, but excludes amounts:

- paid to an executive by the Office where the person worked during the financial year wholly or mainly outside Australia during the time the person was so employed; or
- in payment or reimbursement of out-of-pocket expenses incurred for the benefit of the entity.
- In addition, separate disclosure of separation and redundancy/termination benefit payments is included where applicable.



Notes to and forming part of the financial statements

1. Summary of significant accounting policies (continued)

(q) Insurance

The Office's non-current physical assets and other risks are insured through the Queensland Government Insurance Fund, premiums being paid on a risk assessment basis. In addition, the Office pays premiums to WorkCover Queensland in respect of its obligations for employee compensation.

(r) Contributed equity

Non-reciprocal transfers of assets and liabilities between wholly-owned Queensland State Public Sector entities as a result of machinery-of-Government changes are adjusted to 'Contributed Equity' in accordance with Interpretation 1038 *Contributions by Owners Made to Wholly-Owned Public Sector Entities*. Appropriations for equity adjustments are similarly designated.

(s) Taxation

The Office of the Queensland Ombudsman is a State body as defined under the *Income Tax Assessment Act 1936* and is exempt from Commonwealth taxation with the exception of Fringe Benefits Tax (FBT) and Goods and Services Tax (GST). FBT and GST are the only taxes accounted for by the Office of the Queensland Ombudsman. GST credits receivable from, and GST payable to the ATO, are recognised (refer to note 9).

(t) Issuance of financial statements

The financial statements are authorised for issue by the Ombudsman, Manager of Corporate Services Division and Senior Finance Officer at the date of signing the Management Certificate.

(u) Judgements

The preparation of financial statements necessarily requires the determination and use of certain critical accounting estimates, assumptions, and management judgements that have that potential to cause a material adjustment to the carrying amounts of assets and liabilities within the next financial year. Such estimates, judgements and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognised in the period in which the estimate is revised and in future periods as relevant.

Estimates and assumptions that have a potential significant effect are outlined in the following financial statement notes:

→ Valuation of Plant and Equipment - note 12

(v) Rounding and comparatives

Amounts included in the financial statements are in Australian dollars and have been rounded to the nearest \$1,000 or, where that amount is \$500 or less, to zero, unless disclosure of the full amount is specifically required.

Comparative information has been restated where necessary to be consistent with disclosures in the current reporting period.

(w) New and revised accounting standards

The Office did not voluntarily change any of its accounting policies during 2009-10. Those new and amended Australian accounting standards that were applicable for the first time in the 2009-10 financial year and that had a significant impact on the Office's financial statements are as follows.

The Office of the Queensland Ombudsman complied with the revised AASB 101 *Presentation of Financial Statements* as from 2009-10. This revised standard does not have any measurement or recognition implications. Pursuant to the change of terminology used in the revised AASB 101, the Balance Sheet is now re-named to the Statement of Financial Position, and the Cash Flow Statement has now been re-named to Statement of Cash Flows. The former Income Statement has been replaced by a Statement of Comprehensive Income. In line with the new concept of 'comprehensive income', the bottom of this new statement contains certain transactions that previously were detailed in the Statement of Changes in Equity (refer to the items under the sub-heading "Other Comprehensive Income" in the new Statement of Comprehensive Income). The Statement of Changes in Equity now only includes details of transactions with owners in their capacity as owners, in addition to the total comprehensive income for the relevant components of equity.

The Office is not permitted to early adopt a new accounting standard ahead of the specified commencement date unless approval is obtained from the Treasury Department. Consequently, the Office has not applied any Australian accounting standards and interpretations that have been issued but are not yet effective. The Office applies standards and interpretations in accordance with their respective commencement dates.

All Australian accounting standards and interpretations with future commencement dates are either not applicable to the Office, or have no material impact on the Office.



Notes to and forming part of the financial statements

2.	Reconciliation of payments from consolidated fund to departmental services revenue recognised in statement of comprehensive income	2010 \$'000	2009 \$'000
	Budgeted departmental services appropriation	6,591	6,801
	Less opening balance of services revenue receivable	-	(30)
	Transfers from/(to) other headings	228	-
	Lapsed appropriation	(60)	
	Output revenue recognised in statement of comprehensive income	6,759	6,771

Reconciliation of payments from consolidated fund to equity adjustment recognised in contributed equity		
Budgeted equity adjustment appropriation	-	904
Transfers from/(to) other headings	(228)	-
Equity adjustment recognised in contributed equity	(228)	904

3.	User charges		
	"Good Decisions" and "Complaint Management" training programs	264	235
	Other	26	-
		290	235

4.	Employee expenses		
	<i>Employee benefits</i>		
	Wages and salaries	4,013	3,820
	Employer superannuation contributions*	533	514
	Annual leave levy*	396	378
	Long service leave levy*	82	73
	Other employee benefits	26	25
	<i>Employee related expenses</i>		
	Workers' compensation premium*	9	9
	Payroll tax*	236	227
	Other employee related expenses	60	103
		5,355	5,149

* Refer to Note 1(p)





Notes to and forming part of the financial statements

4. Employee expenses (continued)	2010	2009
The number of employees including both full-time employees and part-time employees measured on a full-time equivalent basis is:		
Number of employees	53	57
<i>Executive remuneration</i>		
The number of senior executives who received or were due to receive total remuneration of \$100,000 or more:		
\$200,000 To \$219,999	1	1
\$220,000 To \$239,999	-	-
\$260,000 To \$279,999	-	1
\$280,000 To \$299,999	1	-
Total	2	2

Employee expenses (continued)	\$'000	\$'000
The total remuneration of executives shown above***	489	470
The total separation and redundancy/termination benefit payments to executives shown above.	-	-

*** The amount calculated as executive remuneration in these financial statements includes the direct remuneration received, as well as items not directly received by senior executives, such as the movement in leave accruals and fringe benefits tax paid on motor vehicles. This amount will therefore differ from advertised executive remuneration packages which do not include the latter items.

5. Supplies and services	2010 \$'000	2009 \$'000
Consultants and contractors	85	72
Computer support	259	168
Electricity	18	31
Legal expenses	10	1
Books	1	2
Motor vehicle expenses	25	31
Office maintenance	25	37
Operating lease rentals	563	1,032
Payments to employment agencies	1	3
Printing	46	52
Stores and stationery	26	23
Telephones/communication	132	80
Travel	19	33
"Good Decisions" training expenses	61	66
General supplies and services	120	125
Total	1,391	1,756



Notes to and forming part of the financial statements

6.	Depreciation and amortisation	2010 \$'000	2009 \$'000
	Depreciation and amortisation were incurred in respect of:		
	Office furniture and fit-out	164	18
	Computer equipment	34	17
	Office equipment	13	11
	Software purchased	29	5
	Total	240	51

No impairment losses were recorded during the year. No revaluation adjustments were necessary during the year.

7.	Other expenses		
	External audit fees*	19	17
	Insurance premiums - QGIF	2	2
	Sundry expenses	26	31
	Total	47	50

* Total external audit fees relating to the 2009-10 financial year are estimated to be \$18,600 (2009: \$16,500). There are no non-audit services included in this amount.

8.	Cash and cash equivalents		
	Imprest accounts	-	1
	Cash at bank and on-hand	395	351
	Total	395	352

Departmental bank accounts are grouped within the whole-of-Government setoff arrangement with the Queensland Treasury Corporation and do not earn interest on surplus funds. Interest earned on the aggregate set-off arrangement balance accrues to the Consolidated Fund.

9.	Receivables		
	Trade debtor	57	63
	Less: provision for impairment	-	-
		57	63
	GST receivable	13	86
	GST payable	(8)	(5)
		5	81
	Annual leave reimbursements	106	61
	Long service leave reimbursements	13	11
		119	72
	Total	181	216



Notes to and forming part of the financial statements

10.	Other current assets	2010 \$'000	2009 \$'000
	<i>Prepayments</i>		
	Insurance	-	2
	Salaries	38	60
	Total	38	62

11.	Intangible assets		
	<i>Software purchased</i>		
	At cost	471	448
	Less: accumulated amortisation	(428)	(399)
	Total	43	49

Intangibles reconciliation		
<i>Software purchased</i>		
Carrying amount at 1 July	49	-
Acquisitions	23	54
Amortisation	(29)	(5)
Carrying amount at 30 June	43	49

Amortisation of intangibles is included in the line item "Depreciation and Amortisation" in the Statement of Comprehensive Income.

The Office has a software program with an original cost of \$395,000, which has been fully amortised, but is still being used in the provision of services. The system was initially developed as a file and complaints management system. It was further updated in the 2008-09 (\$54,000) and in the 2009-10 financial years at a cost of \$23,000 and its continued viability will be assessed in the 2010-11 financial year.



Notes to and forming part of the financial statements

12. Plant and equipment

	2010 \$'000	2009 \$'000
<i>Office furniture and fitout</i>		
At cost	1,685	1,614
Less: accumulated depreciation	(180)	(18)
	1,505	1,596
<i>Computer equipment</i>		
At cost	223	185
Less: accumulated depreciation	(129)	(95)
	94	90
<i>Office equipment</i>		
At cost	77	75
Less: accumulated depreciation	(58)	(45)
	19	30
Total	1,618	1,716

Plant and equipment is valued at cost in accordance with Queensland Treasury *Non-Current Asset Accounting Policies for the Queensland Public Sector*.

Plant and equipment reconciliation	Office furniture and fitout \$'000		Computer equipment \$'000		Office equipment \$'000		Total \$'000	
	2010	2009	2010	2009	2010	2009	2010	2009
Carrying amount at 1 July	1,596	-	90	15	30	12	1,716	27
Acquisitions	73	1,614	38	92	2	29	113	1,735
Depreciation	(164)	(18)	(34)	(17)	(13)	(11)	(211)	(46)
Carrying amount at 30 June	1,505	1,596	94	90	19	30	1,618	1,716

The Office has plant and equipment with an original cost of \$132,070 and a written down value of zero still being used in the provision of services. 50% of these assets with a gross replacement cost of \$60,000 are expected to be replaced in 2010-11 with the remaining 50% to be replaced in the 2011-12 financial year.

13. Payables

	2010 \$'000	2009 \$'000
Trade creditors	320	123
Total	320	123





Notes to and forming part of the financial statements

14. Accrued employee benefits	2010 \$'000	2009 \$'000
Wages outstanding	1	-
Annual leave levy payable	112	110
Long service leave levy payable	20	17
Total	133	127

15. Other liabilities		
<i>Current</i>		
Lease incentive	110	110
<i>Non current</i>		
Lease incentive	880	990

Incentives received on entering into operating leases are recognised as liabilities. Lease payments are allocated between rental expense and reduction of the liability.

16. Reconciliation of operating surplus to net cash from operating activities	2010 \$'000	2009 \$'000
Operating surplus/(deficit)	15	-
Depreciation and amortisation	240	51
Changes in assets and liabilities:		
Increase (decrease) in accrued employee benefits	23	(2)
Increase (decrease) in payables	31	(245)
Decrease (increase) in trade receivables	(41)	(40)
Decrease (increase) in gst input tax credits receivables	74	(65)
Increase (decrease) GST payable	3	1
Decrease (increase) in prepayments	24	(42)
Net cash (used)/from operating activities	369	(342)



Notes to and forming part of the financial statements

17. Commitments for expenditure	2010 \$'000	2009 \$'000
<i>(a) finance lease liabilities</i>		
There were no finance lease liabilities at 30 June 2010.		
<i>(b) non-cancellable operating leases</i>		
Commitments under operating leases at reporting date are inclusive of anticipated GST and are payable as follows:		
→ Not later than one year	769	749
→ Later than one year and not later than five years	3,356	3,227
→ Later than 5 years	552	1,444
Total	4,677	5,420

In 2009 the Office relocated to a new building at 53 Albert Street in terms of a co-location initiative with other complaint agencies. The rental agreement in respect of the Office's premises covered the period to 5 February 2016. The lease has a seven year term with an escalation clause of 4.5% p.a.

The value of the outstanding rent at 30 June 2010 amounted to \$4,644,888 of which \$748,141 is current and \$3,896,747 is non-current.

The Office's vehicles are leased from QFleet. The value of the outstanding leases at 30 June 2010 amounted to approximately \$28,289 of which \$10,882 is non-current.

The franking machine is also leased. The value of the outstanding rentals at 30 June 2010 amounted to approximately \$3,417 all of which is current.

No lease arrangements create restrictions on other financing transactions.

(c) Capital expenditure commitments

There were no capital expenditure commitments at 30 June 2010.

18. Contingencies

(a) Litigation in progress

No litigation involving the Office was in progress at 30 June 2010.

(b) Financial guarantees

The Office was not committed to any guarantees or undertakings at 30 June 2010.

19. Events occurring after balance date

There were no material occurrences after 30 June 2010.



Notes to and forming part of the financial statements

20. Financial instruments

(a) Categorisation of financial instruments

The Office has the following categories of financial assets and financial liabilities:

Category	Notes	2010 \$'000	2009 \$'000
<i>Financial assets</i>			
Cash and cash equivalents	8	395	352
Receivables	9	181	216
Total		576	568
<i>Financial liabilities</i>			
Payables	13	320	123
Total		320	123

(b) Financial risk management

The Office of the Queensland Ombudsman's activities expose it to a variety of financial risks - credit risk, liquidity risk, market risk and interest rate risk, however due to the nature of the Office's activities, these risks are limited. Financial risk management is implemented pursuant to Government policy. These policies focus on the unpredictability of financial markets and seek to minimise potential adverse effect on the financial performance of the Office.

(c) Credit risk exposure

Credit risk exposure refers to the situation where the Office of the Queensland Ombudsman may incur financial loss as a result of another party to a financial instrument failing to discharge their obligation.

The maximum exposure to credit risk at balance date in relation to each class of recognised financial assets is the gross carrying amount of those assets inclusive of any provisions for impairment.

The following table represents the Office's maximum exposure to credit risk based on contractual amounts net of any allowances:

Maximum exposure to credit risk	Notes	2010 \$'000	2009 \$'000
Category			
<i>Financial assets</i>			
Cash and cash equivalents	8	395	352
Receivables	9	181	216
Total		576	568

No collateral is held as security and no credit enhancements relate to financial assets held by the Office.

The Office of the Queensland Ombudsman manages credit risk through the use of a credit management strategy. This strategy aims to reduce the exposure to credit default by ensuring that the Office of the Queensland Ombudsman invests in secure assets, and monitors all funds owed on a timely basis. Exposure to credit risk is monitored on an ongoing basis.

No financial assets and financial liabilities have been offset and presented net in the Statement of Financial Position.

The method for calculating any provisional impairment for risk is based on past experience, current and expected changes in economic conditions and changes in client credit ratings.

No financial assets have had their terms renegotiated so as to prevent them from being past due or impaired, and are stated at the carrying amounts as indicated.



Notes to and forming part of the financial statements

20. Financial instruments (continued)

Aging of past due but not impaired financial assets are disclosed in the following tables:

	Overdue				
	Less than 30 days \$'000	30 - 60 Days \$'000	61 - 90 Days \$'000	More than 90 days \$'000	Total \$'000
2010 Financial assets past due but not impaired					
<i>Financial assets</i>					
Receivables	178	-	3	-	181
Total	178	-	3	-	181
2009 Financial assets past due but not impaired					
<i>Financial assets</i>					
Receivables	201	2	-	13	216
Total	201	2	-	13	216

2010 individually impaired financial assets

There were no impaired financial assets at 30 June 2010 (2009: nil).

(d) Liquidity risk

Liquidity risk refers to the situation where the Office may encounter difficulty in meeting obligations associated with financial liabilities that are settled by delivering cash or another financial asset.

The Office is exposed to liquidity risk in respect of its payables.

The Office manages liquidity risk through the use of a Liquidity Management Strategy. This strategy aims to reduce the exposure to liquidity risk by ensuring the Office has sufficient funds available to meet employee and supplier obligations as they fall due. This is achieved by ensuring that minimum levels of cash are held within the various bank accounts so as to match the expected duration of the various employee and supplier liabilities.

The following table sets out the liquidity risk of financial liabilities held by the Office:

	Notes	< 1 year \$'000	1 - 5 years \$'000	> 5 years \$'000	Total \$'000
2010 Payable in					
<i>Financial Liabilities</i>					
Payables	13	320	-	-	320
Total		320	-	-	320
2009 Payable in					
<i>Financial Liabilities</i>					
Payables	13	123	-	-	123
Total		123	-	-	123

Notes to and forming part of the financial statements

20. Financial instruments (continued)

(e) Market risk

The Office does not trade in foreign currency and is not materially exposed to commodity price changes. The Office is not exposed to interest rate risk. The Office does not undertake any hedging in relation to interest risk and manages its risk as per the liquidity risk management strategy.

(f) Interest rate sensitivity analysis

The Office does not earn interest on cash and cash equivalents and has no borrowings. Consequently it has no exposure to interest rate changes.

(g) Fair value

The Office does not recognise any financial assets or financial liabilities at fair value.

The fair value of cash, cash equivalents, trade receivables and payables and the lease liability approximate their fair value and are not disclosed separately.



Certificate of the office of the Queensland ombudsman

CERTIFICATE OF THE OFFICE OF THE QUEENSLAND OMBUDSMAN

These general purpose financial statements have been prepared pursuant to section 62(1) of the *Financial Accountability Act 2009* (the Act), relevant sections of the *Financial and Performance Management Standard 2009* and other prescribed requirements. In accordance with Section 62(1)(b) of the Act we certify that in our opinion:

- (a) the prescribed requirements for establishing and keeping the accounts have been complied with in all material respects; and
- (b) the statements have been drawn up to present a true and fair view, in accordance with prescribed accounting standards, of the transactions of the Office of the Queensland Ombudsman for the financial year ended 30 June 2010 and of the financial position at the end of that year.



R. RUBENDRA
Manager,
Corporate Services Division



D.J. BEVAN
Queensland Ombudsman



C.B. DE WET
Senior Finance Officer,
Corporate Services Division

27 August 2010



Independent Audit Report

INDEPENDENT AUDITOR'S REPORT

To the Accountable Officer of the Office of the Queensland Ombudsman

Matters Relating to the Electronic Presentation of the Audited Financial Report

The auditor's report relates to the financial report of the Office of the Queensland Ombudsman for the financial year ended 30 June 2010 included on the Office of the Queensland Ombudsman's website. The Accountable Officer is responsible for the integrity of the Office of the Queensland Ombudsman's website. I have not been engaged to report on the integrity of the Office of the Queensland Ombudsman's website. The auditor's report refers only to the statements named below. It does not provide an opinion on any other information which may have been hyperlinked to/from these statements. If users of the financial report are concerned with the inherent risks arising from electronic data communications they are advised to refer to the hard copy of the audited financial report, available from the Office of the Queensland Ombudsman, to confirm the information included in the audited financial report presented on this website.

These matters also relate to the presentation of the audited financial report in any other electronic media including CD Rom.

Report on the Financial Report

I have audited the accompanying financial report of the Office of the Queensland Ombudsman, which comprises the statement of financial position as at 30 June 2010, and the statement of comprehensive income, statement of changes in equity, and statement of cash flows for the year ended on that date, a summary of significant accounting policies, other explanatory notes and the certificates given by the Queensland Ombudsman, Manager, Corporate Services Division and Senior Finance Officer, Corporate Services Division.

The Accountable Officer's Responsibility for the Financial Report

The Accountable Officer is responsible for the preparation and fair presentation of the financial report in accordance with prescribed accounting requirements identified in the *Financial Accountability Act 2009* and the *Financial and Performance Management Standard 2009*, including compliance with Australian Accounting Standards (including the Australian Accounting Interpretations). This responsibility includes establishing and maintaining internal controls relevant to the preparation and fair presentation of the financial report that is free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

Auditor's Responsibility

My responsibility is to express an opinion on the financial report based on the audit. The audit was conducted in accordance with the *Auditor-General of Queensland Auditing Standards*, which incorporate the Australian Auditing Standards. These Auditing Standards require compliance with relevant ethical requirements relating to audit engagements and that the audit is planned and performed to obtain reasonable assurance whether the financial report is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial report. The procedures selected depend on the auditor's judgement, including the assessment of risks of material misstatement in the financial report, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial report in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control, other than in expressing an opinion on compliance with prescribed requirements. An audit also includes evaluating the appropriateness of accounting policies and the reasonableness of accounting estimates made by the Accountable Officer, as well as evaluating the overall presentation of the financial report and any mandatory financial reporting requirements as approved by the Treasurer for application in Queensland.

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

Independent Audit Report

INDEPENDENT AUDITOR'S REPORT

Independence

The *Auditor-General Act 2009* promotes the independence of the Auditor-General and authorised auditors. The Auditor-General is the auditor of all Queensland public sector entities and can only be removed by Parliament.

The Auditor-General may conduct an audit in any way considered appropriate and is not subject to direction by any person about the way in which audit powers are to be exercised. The Auditor-General has for the purposes of conducting an audit, access to all documents and property and can report to Parliament matters which in the Auditor-General's opinion are significant.

Auditor's Opinion

In accordance with s.40 of the *Auditor-General Act 2009* –

- (a) I have received all the information and explanations which I have required; and
- (b) in my opinion –
 - (i) the prescribed requirements in respect of the establishment and keeping of accounts have been complied with in all material respects; and
 - (ii) the financial report has been drawn up so as to present a true and fair view, in accordance with the prescribed accounting standards of the transactions of the Office of the Queensland Ombudsman for the financial year 1 July 2009 to 30 June 2010 and of the financial position as at the end of that year.



D J Olive CPA
(as Delegate of the Auditor-General of Queensland)



Queensland Audit Office
Brisbane

islands
and
Queensland
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Annual Report
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Our complaints assessment team
received 19,652 complaints and
other inquiries, an 11% increase
from the previous year.

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SECTION 6

Our appendices, index
and glossary

Our appendices

➔ APPENDIX 1: Energy consumption

As we mentioned last year, the materials used in the construction of 53 Albert Street have achieved a 4.5 ABGR Green Star rating. This means the materials used have been considered for their environmental benefits. Our energy consumption has also decreased by moving to the new premises, with our electricity consumption falling by approximately 50% due to our tenancy being on one floor (instead of three floors in our previous building), and energy efficient lighting, including sensor lights to switch off when rooms are not in use.

Fuel consumption has also reflected a decline in the amount expended in 2009-2010.

Recycling initiatives continue throughout the building for the management of every day refuse.

The table below details our expenditure on electricity and motor vehicle fuel.

	2007-2008	2008-2009	2009-2010
Electricity	\$28,415	\$34,513	\$17,583
Motor vehicle fuel	\$6,146	\$5,695	\$4,456

➔ APPENDIX 2: Overseas travel

Officer	Destination	Purpose	Date	Cost
F Smith	New Zealand	Australian and New Zealand Ombudsman Association biennial conference	6/7 May 2010	\$1,724.77
Total				\$ 1,724.77

Total cost includes air fares, accommodation, meals, allowances and conference registration.

APPENDIX 3: Right to Information/Information Privacy applications

Due to the commencement of the *Right to Information Act 2009* and the *Information Privacy Act 2009* on 1 July 2009, we are unable to provide historical comparisons.

There was one application carried forward from 2008-2009 to 2009-2010 that was treated and closed under the former *Freedom of Information Act 1992*.

There was one application requesting an internal review during 2009-2010.

A total of \$193.20 was collected for application fees and processing charges in 2009-2010.

Applications received and processed during 2009-2010

	RTI	IP
Number of applications received	10	5
Applications withdrawn or deemed withdrawn	3	2
Number of applications requiring a decision	7	3
Applications on hand – carry over to next year	0	0
Total	20	10

Outcomes of applications finalised during 2009-2010

Application type	Number of applications	Number of documents considered	Access in full	Access in part	Access refused	% of documents released in full or part
Right to Information	10	1,046	1,000	38	8	99%
Information Privacy	5	127	127			100%
Total	15	1,173	1,127	38	8	

Exemptions invoked

	Number of times
Information subject to legal professional privilege	2
Deletion of contrary to public interest information	1
Total	3



APPENDIX 4: Presentations delivered by staff of the Queensland Ombudsman's Office

Presentations register 1/7/2009 - 30/6/2010

Date	Organisation/topic	Venue
9/7/09	Thai Delegation - Role of the Ombudsman	Brisbane
23/7/09	Department of Primary Industries – 'Regulatory capture – what the Ombudsman has learned'	Brisbane
30/7/09	Australian Public Sector Anti-Corruption Conference – Role of the Ombudsman in preventing corruption in Corrections	Brisbane
31/7/09	APSACC conference – Good public administration workshop	Brisbane
18/8/09	Workplace Health & Safety Queensland – 'Regulatory capture – what the Ombudsman has learned'	Caboolture
20/8/09	Official Visitors Conference	Brisbane
27/8/09	Centrelink interagency forum – Role of Ombudsman	Brisbane
9/11/09	Complaints and Review Branch, Department of Communities, Complaints and Community Engagement	Brisbane
19/11/09	Inter-departmental Accounting Group Conference – The tell-tale signs of regulatory decay	Gold Coast
23/11/09	Office of the Adult Guardian Workshop – Good decision-making for the public sector	Brisbane
30/11/09	Korean Delegation - Role of the Ombudsman	Brisbane
15/3/10	Commission for Children and Young People and Child Guardian – Referring matters between the Qld Ombudsman and the Commission for Children and Young People and Child Guardian	Brisbane
19/3/10	Australasian & Pacific Ombudsman Conference – Own initiative investigations on Queensland Corrective Services	Canberra
29/3/10	LGMA Qld Central Qld Branch Annual Conference	Yeppoon
20/4/10	QUT environmental health students - An introduction to good decision making: The tell-tale signs of regulatory decay	Brisbane
7/5/10	Unreasonable Complainant Conduct Project Phase 2	Brisbane
10/5/10	Ecumenical Social Justice Group - Role of Ombudsman	Brisbane
9/6/10	Roma House, Mission Australia – Role and jurisdiction of the Ombudsman	Brisbane
9/6/10	Yeronga Neighbourhood Watch – Role of the Ombudsman	Brisbane


APPENDIX 5: Professional development activities undertaken in 2009-2010

Program	Provider
<i>Marketing/communication/client services</i>	
BIIG Idea Factory Workshop	Department of Transport
Building your Project Profile	Australian Institute of Project Management
Crisis Communication	Society of Business Communicators Qld
Connecting with the Community	Australian Marketing Institute
<i>Legal/investigative</i>	
Certificate IV Government (Investigations)	Queensland Police Service
Anti-Corruption Conference	AST Management
AIAL Seminar	Australian Institute of Administrative Law
Declarable gifts seminar	Institute of Public Administration Australia
Right to Information	Office of the Information Commissioner
Right to Information	Megan Carter
<i>Interpersonal</i>	
Fire Warden Training	First Five Minutes
First Aid & Resuscitation Training	Red Cross
<i>Administrative/computer</i>	
Advanced Macro Development	Resolve Computer Services
Executive Training	Carole V & Associates
Executive Coaching	Carole V & Associates
Fringe Benefits Tax training	Qld Treasury
Procurement Accreditation Level 1	Department of Public Works
Sequel Server Reporting	IT Training Solutions
Introduction to Parliament	Qld Parliamentary Services
Relationship between the Parliament and the Executive	Qld Parliamentary Services
<i>Conference attendance</i>	
IPAA National Conference	Institute of Public Administration Australia
2010 ANZOA Conference	Australian and New Zealand Ombudsman Association
LGMA Qld Annual Conference	Local Government Managers Australia
IAG Financial Conference	Interdepartmental Accounting Group
25th Australasian and Pacific Ombudsman Conference	Commonwealth Ombudsman's Office



APPENDIX 6: Index and list of acronyms

Name	Acronym	Page
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Acquisition of Land Act 1967	-	38
Administrative Improvement Unit	AIU	14, 22
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Corporate Procurement Plan	-	87
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Corrective Services Act 2006	-	48, 61
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Local Area Multicultural Partnership	LAMP	77, 123
Local Government Act	LGA	49, 51, 52, 64, 65, 69

Name	Acronym	Page
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Local Government (Operations) Regulation 2010	-	49, 51, 69
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Right to Information	RTI	17, 55, 82, 83, 90, 119, 121
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Sustainable Planning Act 2009	-	63
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Whistling While They Work Project	WWTW Project	73
Whistleblowers Protection Act 1994	-	82, 83
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APPENDIX 7: A breakdown of complaints against Queensland Health business units and service areas

Units	Service areas
Medical Board of Queensland	14
Queensland Nursing Council	13
Mental Health Review Tribunal	9
Medical Radiation Technologists Board	5
Office of Health Practitioner Registration Boards	2
Psychologists Board of Queensland	2
Dental Board of Queensland	1
Total	46



APPENDIX 8: Glossary

Item	Description
Complainant	A person bringing a complaint to the Office
Complaint	An expression of dissatisfaction
Complaint finalised	A complaint that our Office reviews and establishes an outcome
Complaint received	A complaint received by our Office during the financial year
Inquiry	Contact with our Office where the person seeks information or assistance but does not make a specific complaint
Internal review	Investigation of a decision undertaken by the agency who made the initial decision
Local Area Multicultural Partnership (LAMP)	Program delivered through local councils by community relations workers employed by the local council
Law, Justice and Safety Committee	The LJSC comprises members of Parliament. We report to the LJSC on an annual basis
Maladministration	The decisions and administrative actions of public agencies that are unlawful, unfair, unreasonable or wrong
<i>Ombudsman Act 2001</i>	The Ombudsman Act: → recognises a dual role for the Ombudsman to remedy complaints about administrative actions and assist agencies to improve their decision-making and administrative practice → facilitates informal investigation and resolution of complaints → empowers the Ombudsman to use investigative powers if necessary → provides for our Office's independence.
Out of jurisdiction	A complaint received that we do not have the authority to investigate
Public administration	The administrative practices of Queensland public sector agencies
Public agencies / public sector agencies	State government agencies and local councils
Public interest disclosure (PID)	An appropriate disclosure of public interest information made by the proper person to an appropriate entity
Recommendation	We cannot direct agencies to implement our recommendations but they rarely refuse to do so. If they refuse the Ombudsman can require them to provide reasons and can give a report to the relevant Minister, the Premier or Parliament if not satisfied with the reasons
Referral	Out of our jurisdiction so the caller is referred to another agency
Review request	The complainant requests we reconsider our decision on their case
Systemic problem or issue	Where some error in the agency's administrative process (its system) is causing or contributing to complaints

“The Office is well placed to continue carrying out its important role in Queensland’s accountability framework of ensuring people are treated fairly in their dealings with government agencies.”

The Office is well placed to continue carrying out its important role in Queensland’s accountability framework of ensuring people are treated fairly in their dealings with government agencies.

David Bevan
Queensland Ombudsman

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QUEENSLAND
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Annual Report 2009 - 2010

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