



Oversight of the Office of the Queensland Ombudsman

Report No. 10, 55th Parliament
Legal Affairs and Community Safety Committee
October 2015

Legal Affairs and Community Safety Committee

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Abbreviations

Act	<i>Ombudsman Act 2001</i>
Annual Report 2013-14	Queensland Ombudsman Annual Report 2013-14
CCYPCG	Commission for Children and Young People and Child Guardian
CMC	Crime and Misconduct Commission
committee	Legal Affairs and Community Safety Committee
Office	Office of the Queensland Ombudsman
PID Act	Public Interest Disclosure Act 2010
Smerdon Review	The 2012 statutory strategic review of the Office conducted by Mr Henry Smerdon AM tabled in Queensland Parliament on 17 May 2012

Glossary¹

Administrative error	Decisions and administrative actions of public agencies that are unlawful, unreasonable, unjust, oppressive, improperly discriminatory or wrong.
Agency	A government department, local council or public university that falls within the jurisdiction of the Queensland Ombudsman.
Agreed action	An agreed action involves working with the agency and complainant to reach a satisfactory resolution. This is a more effective and timely way to resolve a complaint where an assessment reveals evidence of administrative error.
Assessment	The complaint is finalised through research and assessment, without contacting the agency concerned.
Complainant	A person bringing a complaint to the Office.
Complaint	An expression of dissatisfaction about an agency within jurisdiction. Complaints include complaint issues. A complainant may raise more than one issue of complaint in relation to an administrative action or decision.
Complaint finalised	A complaint that is closed by the Office after assessment, advice and/or investigation.
Complaint management system	A system for dealing with complaints.
Complaint received	A complaint received during the financial year.
Contact	Any contact with the Office, irrespective of whether the matter is within or outside jurisdiction.
Corporate governance	The system by which an organisation is controlled and operates and the mechanisms by which it is held to account – ethics, risk management, compliance and administration are all elements of corporate governance.
Direct benefit recommendation	Any recommendation made by the Office that directly benefits the complainant, for example an apology or refund.
Enquiry	Contact where the person seeks information or assistance but does not make a specific complaint.
Internal review	Review of a decision undertaken by the agency that made the initial decision.
Internal review request	If a complainant is not satisfied with the outcome of an assessment or investigation by the Office, they can ask that the decision be reviewed by another officer at the same or more senior level to the decision-maker.
Major investigation	Significant time and resources is expended on investigating systemic administrative errors.

¹ Queensland Ombudsman *Annual Report 2013-2014*, pp 64-65.

Maladministration	A formal finding of administrative error by the Ombudsman under s.50 of the <i>Ombudsman Act 2001</i> .
Out of jurisdiction matter	A matter that the Office does not have the power to investigate.
Own-initiative investigation	The Ombudsman decides to undertake an investigation into systemic issues in a certain agency without receiving a complaint.
Preliminary assessment	An analysis of a complaint by the Office to determine how it should be managed.
Prisoner PhoneLink	With the assistance of Queensland Corrective Services, a free telephone service that allows prisoners direct and confidential access to the Office at set times. This service allows prisoners to contact the Queensland Ombudsman for assistance with a complaint, rather than waiting for staff to visit their correctional centre.
Public administration	The administrative practices of Queensland public sector agencies.
Public Interest Disclosure (PID)	A confidential disclosure of wrongdoing within the public sector that meets the criteria set out in the <i>Public Interest Disclosure Act 2010</i> . PIDs commonly include allegations of official misconduct or maladministration.
Public reports	A report issued by the Ombudsman under section 50 of the <i>Ombudsman Act 2001</i> that is tabled in Parliament or publicly released with the Speaker's authority.
Recommendation	Advice given by the Ombudsman to an agency to improve administrative practices. The Ombudsman cannot direct agencies to implement recommendations but they rarely refuse to do so. If agencies do refuse, the Ombudsman can require them to provide reasons and report to the relevant Minister, the Premier, or Parliament if not satisfied with the reasons.
Rectification	An investigation that results in the total or partial resolution of the complaint.
Referral	When a matter is outside the Ombudsman's jurisdiction, and advice or help is provided to the complainant about the right complaints agency. Recording matters as referrals ceased in 2012-13.
Review	The Ombudsman may conduct a review of the administrative practices and procedures of an agency and make recommendation for improvements.
Systemic issue	An error in an agency's administrative process that may impact on a number of people.

Chair's foreword

The Legal Affairs and Community Safety Committee (committee) has oversight responsibilities for the Office of the Queensland Ombudsman. This report provides information regarding the performance by the Office of its functions under the *Ombudsman Act 2001*.

The committee met with the Queensland Ombudsman, Mr Phil Clarke and his staff on 15 July 2015. The committee also reviewed the Queensland Ombudsman's Annual Report 2013-2014 (Annual Report 2013-14) which was tabled in the Legislative Assembly on 30 September 2014.

On behalf of the committee, I thank the Queensland Ombudsman and his staff who assisted the committee throughout the course of this inquiry.

I commend this Report to the House.

A handwritten signature in blue ink that reads "Mark Furner". The signature is written in a cursive style with a large initial 'M'.

Mark Furner MP

Chair

Recommendations

Recommendation 1

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The committee recommends the House note the contents of this report.

1. Introduction

1.1 Role of the Committee

The Legal Affairs and Community Safety Committee (committee) is a portfolio committee of the Legislative Assembly which commenced on 27 March 2015 under the *Parliament of Queensland Act 2001* and the Standing Rules and Orders of the Legislative Assembly.²

The committee's primary areas of responsibility include:

- Justice and Attorney-General
- Police Service
- Fire and Emergency Services
- Training and Skills.

Section 93(1) of the *Parliament of Queensland Act 2001* provides that a portfolio committee is responsible for examining each bill and item of subordinate legislation in its portfolio areas to consider:

- the policy to be given effect by the legislation
- the application of fundamental legislative principles
- for subordinate legislation – its lawfulness.

The committee also has statutory oversight responsibilities for the Office of the Information Commissioner, the Office of the Queensland Ombudsman, the Electoral Commissioner and the Criminal Organisation Public Interest Monitor.

This report is made in relation to the committee's statutory oversight responsibility for the Office of the Queensland Ombudsman.

1.2 Purpose and functions of the Office of the Queensland Ombudsman

The Office of the Queensland Ombudsman (Office) was established in 1974 to investigate the administrative actions of Queensland government agencies, local councils and universities.

Under the *Ombudsman Act 2001* (Act), the Ombudsman has a dual role:

- to provide a fair, independent and timely investigative service for people who believe that they have been adversely affected by the decisions of a public agency
- to help public agencies improve their decision-making and administrative practice.

The majority of investigations arise from complaints received, but the Ombudsman also conducts own-initiative investigations.³

The Act provides the functions of the Ombudsman as:

- (a) *to investigate administrative actions of agencies –*
 - (i) *on reference from the Assembly or a statutory committee of the Assembly; or*
 - (ii) *on a complaint; or*
 - (iii) *on the ombudsman's own initiative; and*
- (b) *to consider the administrative practices and procedures of an agency whose actions are being investigated and to make recommendations to the agency –*

² *Parliament of Queensland Act 2001*, section 88 and Standing Order 194.

³ Queensland Ombudsman, *Annual Report 2013-2014*, p 3.

- (i) *about appropriate ways of addressing the effects of inappropriate administrative actions; or*
- (ii) *for the improvement of the practices and procedures; and*
- (c) *to consider the administrative practices and procedures of agencies generally and to make recommendations or provide information or other help to the agencies for the improvement of the practices and procedures; and*
- (d) *the other functions conferred on the ombudsman under [the Act] or any other Act.*⁴

The Act also provides that:

Subject to any other Act or law, the ombudsman is not subject to direction by any person about –

- (a) *the way the ombudsman performs the ombudsman’s functions under [the Act]; or*
- (b) *the priority given to investigations.*⁵

The Ombudsman may investigate administrative actions of agencies, and an administrative action despite a provision in any Act to the effect that the action is final or cannot be appealed against, challenged, reviewed, quashed or called in to question.⁶

The Ombudsman must not question the merits of a decision, including a policy decision, made by a Minister or Cabinet; or a decision that the Ombudsman is satisfied has been taken for implementing a decision made by Cabinet.⁷

The Ombudsman must not investigate administrative action taken by any of the following:

- a tribunal, or a member of a tribunal, in the performance of the tribunal’s deliberative functions
- a person acting as legal adviser to the State or as counsel for the State in any legal proceedings
- a member of the police service, if the action may be, or has been, investigated under the *Crime and Corruption Act 2001*
- a police officer, if the officer is liable to disciplinary action, or has been disciplined under the *Police Service Administration Act 1990*
- the Auditor-General
- a mediator at a mediation session under the *Dispute Resolution Centres Act 1990*
- a person in a capacity as a conciliator under the *Health Rights Commission Act 1991* or the repealed *Health Quality and Complaints Commission Act 2006*
- the Information Commissioner in the performance of the Commissioner’s functions under the *Right to Information Act 2009*.⁸

1.3 Committee’s responsibilities regarding the Office of the Queensland Ombudsman

In addition to the jurisdiction conferred by the *Parliament of Queensland Act 2001*, the Act provides that the committee is required to:

⁴ *Ombudsman Act 2001*, section 12.

⁵ *Ombudsman Act 2001*, section 13.

⁶ *Ombudsman Act 2001*, section 14.

⁷ *Ombudsman Act 2001*, section 16(1).

⁸ *Ombudsman Act 2001*, section 16(2)(a)-(h); also note there are other exceptions under the *Government Owned Corporations Act 1993*.

- monitor and review the performance by the Ombudsman of the Ombudsman's functions under the Act
- report to the Assembly on any matter concerning the Ombudsman, the Ombudsman's functions or the performance of the Ombudsman's functions that the committee considers should be drawn to the Assembly's attention
- examine each annual report tabled in the Assembly under the Act and, if appropriate, to comment on any aspect of the report
- report to the Assembly any changes to the functions, structures and procedures of the Office the committee considers desirable for the more effective operation of the Act
- any other functions conferred on the committee by the Act.⁹

1.4 Strategic Review of the Office of the Queensland Ombudsman

Section 83 of the Act provides that strategic reviews of the Office of the Ombudsman must be conducted at least every five years and that the review must include a review of the Ombudsman's functions and the performance of the functions to assess whether they are being performed economically, effectively and efficiently.

The most recent strategic review of the Office was completed in 2012; and the next review is due to commence in 2016.

⁹ *Ombudsman Act 2001*, section 89.

2. Oversight of the Ombudsman

2.1 Process followed by the Committee

In conducting its oversight functions of the Office, the committee followed the process it previously adopted.

The process included:

- Questions on Notice being provided to the Ombudsman with a request for responses to be provided prior to the hearing
- a public hearing with the Ombudsman to discuss his responses to the Questions on Notice and to ask questions without notice
- providing this Report.

On 5 June 2015, the committee provided Questions on Notice to the Ombudsman.

The committee received the Ombudsman's written response to the Questions on Notice on 29 June 2015. The responses to the Questions on Notice are at **Appendix A**.

On Wednesday 15 July 2015, the committee held a public hearing with the Queensland Ombudsman, Mr Phil Clarke, and the following officers from his Office:

- Mr Andrew Brown, Deputy Ombudsman
- Ms Diane Gunton, Manager, Corporate Services Unit
- Ms Leanne Robertson, Principal Advisor, Public Interest Disclosures.

A copy of the transcript of the public hearing is available on the committee's website.

3. Meeting with the Ombudsman

3.1 Issues considered by the Committee

In his opening statement to the committee, the Ombudsman focused on a number of key achievements of the Office during the 2013-14 financial year and for the period up to 31 December 2014. The Ombudsman reported that this period was one of significant consolidation for the Office after a period of very substantial change. In particular, the Ombudsman noted that the operational reforms in complaints management and investigations in the office since 2012 were now largely complete. The Ombudsman indicated that these changes had delivered significant improvements in performance, and in particular, in the enhanced timeliness of investigations. The Ombudsman noted:

*... that clients on average get their complaints initially assessed within about six days. For those that are subsequently investigated, the complaint investigation is an average of 55 days.*¹⁰

The Ombudsman pointed out that timeliness is just one aspect of the management of complaints and highlighted the importance of the resolutions to be achieved from those investigations. The Ombudsman commented:

*In the Office, this is recognised by now measuring the rate at which investigations achieve resolution or rectification in the agency that is being investigated. In the last six months of 2014, about 22 per cent of investigations led to some form of rectification, whether that would be a systemic rectification or an individual rectification for the complaint received by the agency concerned, and that was up from 17 per cent in the financial year 2013-14.*¹¹

In terms of the number of complaints received, the Ombudsman reported some minor growth. He indicated that the growth had been driven by a couple of things: (1) population growth in the state; (2) the increasing complexity of government administration; (3) increasing preparedness of citizens to challenge agency decisions; (4) the increasing cost and complexity of taking matters to a court; and (5) government policy decisions. By way of an example of government policy decisions impacting the number of complaints received by the Office, the Ombudsman referred to the abolition of the children's commission by the previous government.¹²

The Ombudsman spoke of the challenge to ensure that all Queenslanders have access to the Office's services particularly since the Office is located in Brisbane only and does not have offices across the state. To overcome these challenges, the Office implemented its regional services program on 1 July 2013. The Ombudsman described the program as a 'key plank in engaging with regional communities to build awareness of Ombudsman services and to enhance that access, particularly for target groups'.¹³ The reference to 'target groups' is a reference to remote Indigenous councils, discreet Indigenous councils, NGOs which service communities outside of South-East Queensland and particularly councils outside South-East Queensland. The Ombudsman also described the regional services program as a program which:

*... builds on the Office's training programs to deliver a range of additional services including engagement within regional agency offices, MPs offices, councils and regional universities as well as local community groups and NGOs.*¹⁴

¹⁰ *Transcript of Proceedings (Hansard)*, Public Hearing, Legal Affairs and Community Safety Committee, 15 July 2015, p 1.

¹¹ *Transcript of Proceedings (Hansard)*, Public Hearing, Legal Affairs and Community Safety Committee, 15 July 2015, pp 1-2.

¹² *Transcript of Proceedings (Hansard)*, Public Hearing, Legal Affairs and Community Safety Committee, 15 July 2015, p 2.

¹³ *Transcript of Proceedings (Hansard)*, Public Hearing, Legal Affairs and Community Safety Committee, 15 July 2015, p 2.

¹⁴ *Transcript of Proceedings (Hansard)*, Public Hearing, Legal Affairs and Community Safety Committee, 15 July 2015, p 2.

The Ombudsman also explained that:

... the Office continues to undertake complaints management system reviews each year with agencies to enhance their practice in complaints management in an attempt to build a whole-of-public-sector complaints management right from the immediate front of house with agencies all the way up to complaints bodies such as myself and the Office.¹⁵

The Office's training programs have continued to be popular during the last 18 months after a lull in demand in 2012-13. The Ombudsman advised that number of training programs increased substantially from 80 in the 2012-13 financial year to 154 in the 2014-15 financial year.¹⁶

The Ombudsman also discussed the challenges related to measuring and meeting client expectations in terms of client satisfaction surveys. In 2012-13, the Office established a target of 80% as a client satisfaction rate, and this was used again in 2013-14. The Ombudsman explained:

That client satisfaction target was established by looking across a broad basket of service delivery bodies and trying to determine what an appropriate target was for the office, and we settled on 80 per cent. That client satisfaction seeks to measure the helpfulness, respectfulness, professionalism and timeliness of the service we provide to complainants. It does not set out to measure the client satisfaction with the outcome of the matter—in other words, whether they got a resolution they liked or did not like. In an environment where the staff of the office must maintain their independence from both complainants and agencies, the willingness or the capacity of clients to differentiate between outcome satisfaction and service delivery satisfaction is a challenge. We see that from the numbers that we achieve in terms of client satisfaction. This does not mean, however, that there are not valuable lessons to be learned from those client satisfaction surveys. Indeed, the office will continue to measure client satisfaction to enhance its service to clients and agencies. Whether we successfully achieve 80 per cent will be another question, but we will continue to survey clients and we will continue to try to learn from those surveys.¹⁷

The Ombudsman noted that in 2013-14, there was a significant reduction in the number of reported public interest disclosures (PID) across public agencies. The 725 reported PIDs in 2013-14 was a substantial reduction of approximately 40% from the previous year. The Ombudsman elaborated as follows:

The projected further decreases in public interest disclosures that were contained in the annual report have, in fact, come to pass in subsequent years. I will be able to detail for the committee in the 2014-15 annual report the outcome of those public interest disclosure reported changes.¹⁸

Questions from the committee focused on:

- visitations to correctional centres and boot camps
- emerging trends or patterns in the types and quality of complaints about government bodies
- client satisfaction surveys
- the reduction in PIDs over the last couple of years
- an information fact sheet or briefing to members on PIDs
- consultation with the Office concerning changes in government policy

¹⁵ *Transcript of Proceedings (Hansard)*, Public Hearing, Legal Affairs and Community Safety Committee, 15 July 2015, p 2.

¹⁶ *Transcript of Proceedings (Hansard)*, Public Hearing, Legal Affairs and Community Safety Committee, 15 July 2015, p 2.

¹⁷ *Transcript of Proceedings (Hansard)*, Public Hearing, Legal Affairs and Community Safety Committee, 15 July 2015, p 2.

¹⁸ *Transcript of Proceedings (Hansard)*, Public Hearing, Legal Affairs and Community Safety Committee, 15 July 2015, p 2.

- the process used by the Office to deal with complaints
- the refurbishment and design of the correctional facilities at Borallon prison
- the Office's program of visiting correctional facilities
- ensuring an understanding of the role of the Office through the Regional Services Program
- the extent of the Regional Services Program and its role
- discussion of the recent St George visit and the workload of complaints generated from that visit
- the overlap, if any, with the Health Ombudsman.

3.2 Annual Report 2013-2014

The Queensland Ombudsman's Annual Report 2013-14 was tabled on 30 September 2014. The Annual Report 2013-14 highlights that 2013-14 was a year of consolidation for the Office and involved building on the changes that have been introduced over the last three years since the 2012 Strategic Review.¹⁹

The Annual Report 2013-14 notes that the implementation of the changes from the 2012 Strategic Review has:

*... resulted in improved handling and investigation of complaints across the Office. It has also resulted in an expanded regional service program including delivery of training, complaint management systems reviews and community engagement.*²⁰

The following areas were highlighted in the Annual Report 2013-14 as key objectives of the Office:

- fair and reasonable treatment of complaints
- rectifying unfair or unjust decisions
- helping public agencies improve decision-making
- oversight of PIDs
- engaging with the community
- a capable and accountable organisation
- opportunities.²¹

Complaints received

During 2013-14, the Office received 6,308 complaints, which was on par with the total of 6,363 complaints from the previous year. However, the Office introduced a new system of recording complaints during the last financial year. Accordingly, on a like-for-like basis, the Office received 6202 complaints which was 4% more complaints in 2013-14, compared to 2012-13.²²

Of these complaints:

- 66% were about state government departments, including departments and statutory authorities (4,169)
- 28% were about local councils (1,778)

¹⁹ Queensland Ombudsman, *Annual Report 2013-14*, p 6.

²⁰ Queensland Ombudsman, *Annual Report 2013-14*, p 6.

²¹ Queensland Ombudsman, *Annual Report 2013-14*, pp 6-7.

²² Queensland Ombudsman, *Annual Report 2013-14*, p 15.

- 5% were about public universities (338).²³

Time to finalise complaints

The Annual Report 2013-14 reports that the Office continues to improve the time taken to finalise complaints due to improved business practices implemented over the past few years.²⁴ More specifically, the Annual Report 2013-14 notes:

*In 2013-14, it took an average of 11.6 days to finalise a complaint. This average includes preliminary assessments and investigations. This compares to 12 days in 2012-13, which was a significant improvement on the 24.3 days to finalise a complaint in 2011-12.*²⁵

The committee notes that the most significant improvement in timeliness during 2013-14 related to investigations by the Office. These took an average of 55.6 days to finalise in 2013-14, compared to 75.3 days the previous year and 132 days the year before that. This represents a 26% improvement since 2012-13.²⁶

In 2013-14:

- 71% of complaints were finalised within 10 days (79% in 2012-13)
- 93% of complaints were finalised within 30 days (92% in 2012-13)
- more than 99% of complaints were finalised within 12 months for the second year running
- there were 2 complaints more than 12 months old remaining open as at 30 June 2014.²⁷

Complaints finalised at preliminary assessment

The Office finalised 6,293 complaints in 2013-14, of which 5,336 were finalised after a preliminary assessment. This represents 85% of the total number of complaints finalised in 2013-14. The majority of complaints finalised at preliminary assessment were premature, meaning that the complainant had not first raised the complaint with the agency before approaching the Office.²⁸ In these circumstances, with the complainant's consent, the Office can directly refer a premature complaint to the agency at the preliminary assessment stage. During the 2013-14 year, the Office directly referred 618 premature complaints²⁹ which was a significant increase from the 395 complaints referred the previous year for the same period.³⁰ Regarding this increase, the Office provided the following additional information in its response to Questions on Notice from the committee:

*The increase in premature complaints directly referred to agencies reflects changes in business processes which are designed to improve the service provided to complainants. Responses to both client and agency feedback indicated that the Office directly referring matters received prematurely provided an enhanced opportunity for an agency to properly consider each complaint, while retaining the complainant's right to ultimately bring the matter back to the Office if they remained dissatisfied with the agency response.*³¹

²³ Queensland Ombudsman, *Annual Report 2013-14*, pp 15.

²⁴ Queensland Ombudsman, *Annual Report 2013-14*, p 21.

²⁵ Queensland Ombudsman, *Annual Report 2013-14*, p 21.

²⁶ Queensland Ombudsman, *Annual Report 2013-14*, p 21.

²⁷ Queensland Ombudsman, *Annual Report 2013-14*, p 21.

²⁸ Queensland Ombudsman, *Annual Report 2013-14*, p 23.

²⁹ The Office advised that 791 premature complaints were referred directly to the agencies in the period 1 July 2014 to 31 May 2015 (see letter from the Queensland Ombudsman dated 29 June 2015, p 10).

³⁰ Queensland Ombudsman, *Annual Report 2013-14*, p 23.

³¹ Letter from the Queensland Ombudsman dated 29 June 2015 (Response to Questions on Notice), p 10.

Equitable and accessible service

The Annual Report 2013-14 explains how the Office has developed a targeted outreach program to ensure that its services are accessible to all Queenslanders. As part of this process, during 2013-14, the Office continued to implement its *Diversity Engagement Action Plan 2013-18* which guides engagement with Indigenous communities, refugees, prisoners, people with disabilities and special needs and the homeless. Additionally, the Regional Services Program was revitalised and relaunched on 1 July 2013. This involved visits to 57 regional centres across Queensland in 2013-14.³²

The committee also notes that, in the 2013-14 financial year, the Office has worked to improve awareness and accessibility among the homeless community. Specifically, officers attended a number of events to promote awareness of the Office and its services to the homeless community. These included the Homeless Connect events in November 2013 and May 2014 in Brisbane and the Street Links events in October 2013 and June 2014 to advise of the Ombudsman role, take complaints and offer referral to services outside this Office's jurisdiction. Information bags were handed out at these events to participants and service providers. The Office also advises of a presentation to caseworkers from the Queensland Public Interest Law Clearing House Incorporated Homeless Persons' Legal Clinic in February 2014.³³

Rectifying unfair decisions

A complaint is investigated if, after preliminary assessment:

- it is within jurisdiction
- it is not premature
- relevant material has been obtained
- there is no reason why an investigation is not warranted.³⁴

An investigation determines whether an administrative action is unlawful, unreasonable, unjust or otherwise unfair. In 2013-14, the Office investigated 900 complaints (14% of the total number of complaints finalised), compared with 795 for the previous years. A further 12 matters were the subject of own initiative investigations compared to 23 from the previous year.³⁵

A total of 932 matters were investigated in 2013-14, an increase of 12% (818 investigations were finalised in 2012-13).³⁶

Of the 932 investigations finalised in 2013-14, 156 investigations resulted in the total or partial rectification of the issue (17% of all investigations which was an increase from 14% the previous year).³⁷ Of the remaining investigations, no administrative error was identified in 535 investigations (57% of investigations) and in 234 investigations, the Office decided that the continuation of the investigation was not warranted.³⁸

³² Queensland Ombudsman, *Annual Report 2013-14*, pp 24.

³³ Letter from the Queensland Ombudsman dated 29 June 2015 (Response to Questions on Notice), p 10.

³⁴ Queensland Ombudsman, *Annual Report 2013-14*, p 28.

³⁵ Queensland Ombudsman, *Annual Report 2012-13*, p 35 and *Annual Report 2013-14*, p 28.

³⁶ Queensland Ombudsman, *Annual Report 2012-13*, p 35 and *Annual Report 2013-14*, p 28.

³⁷ Queensland Ombudsman, *Annual Report 2012-13*, p 35 and *Annual Report 2013-14*, p 28.

³⁸ Queensland Ombudsman, *Annual Report 2013-14*, p 28.

Feedback from stakeholders

During 2013-14, the Office conducted a telephone survey of complainants to measure the impact of changes made by the Office and to identify areas for improvement.³⁹ The Annual Report 2013-14 highlights the following key results from this survey:

- more complainants said their investigation took ‘about the right amount of time’ compared to past surveys
- the frequency of client contact had increased
- over 49% of people were satisfied with the service provided by the Office during the investigation of their complaint, based on helpfulness, respectfulness, professionalism and timeliness.⁴⁰

Ombudsman’s recommendations

If the Office identifies an administrative error during an investigation, it can negotiate a resolution with the agency or the Ombudsman can make recommendations to an agency to rectify the problem. Remedies may include a request that the agency remake the decision, apologise or make a refund to the complainant. The Ombudsman may also recommend the agency improve its policies and procedure to avoid future errors. If an investigation does not find evidence of administrative error, the complainant is provided with a detailed explanation of the Office’s findings.⁴¹

The Office made 146 investigative recommendations in 2013-14: 22 recommendations under section 50 of the Act, and the Office negotiated a further 124 agreed actions with agencies to rectify errors. An agreed action involves working with the agency and complainant to reach a satisfactory resolution.⁴²

Recommendations or agreed actions can also be divided into those of direct benefit to an individual and those dealing with systemic concerns. Direct benefit recommendations produce an outcome for an individual complainant. Systemic recommendations address faults with policies, procedures or practices.⁴³

In 2013-14 there were 56 direct benefit recommendations/agreed actions and 90 systemic recommendations/agreed actions. As in previous years, the majority of recommendations identified improvements to agencies’ policies or procedures.⁴⁴

In 2013-14, 96% of recommendations that received a response from the agency by 30 June 2014 were accepted (99% in 2012-13).⁴⁵

People

As at 30 June 2014, 64 officers were employed on a full or part-time basis equating to 57 full-time equivalents. In total, 66% of the Office’s workforce is female.⁴⁶

³⁹ Queensland Ombudsman, *Annual Report 2013-14*, p 28.

⁴⁰ Queensland Ombudsman, *Annual Report 2013-14*, p 29.

⁴¹ Queensland Ombudsman, *Annual Report 2013-14*, p 30.

⁴² Queensland Ombudsman, *Annual Report 2013-14*, p 30.

⁴³ Queensland Ombudsman, *Annual Report 2013-14*, p 30.

⁴⁴ Queensland Ombudsman, *Annual Report 2013-14*, p 30.

⁴⁵ Queensland Ombudsman, *Annual Report 2013-14*, p 30.

⁴⁶ Queensland Ombudsman, *Annual Report 2013-14*, p 47.

The workforce remained relatively stable with a permanent staff turnover of six (10%) during the year. Employees left the Office due to retirement, external opportunities for promotion and interstate relocation.⁴⁷

In 2013-14, the Office spent 1.6% of its salary budget on professional development activities. In 2014, as part of continuing to develop leadership skills, the Office's senior staff members participated in a 360 degree feedback process.⁴⁸

External Accountability Measures

The Ombudsman is an officer of the Parliament and is accountable to the Queensland Legislative Assembly through the committee. The Ombudsman is also required to attend the annual Parliamentary Estimates committee hearing as Chief Executive of the Office. During the relevant period, the Ombudsman attended at this hearing in July 2013. The financial reports of the Office are also subject to an external audit. During the 2013-14 period, the Ombudsman met the timeframes for the preparation of the necessary financial reports as required.⁴⁹

As noted above, in accordance with the Ombudsman Act, a strategic review of the Office was conducted independently by Mr Henry Smerdon AM. Mr Smerdon's report, containing 57 recommendations, was tabled in Queensland Parliament on 17 May 2012 (Smerdon Review). The committee subsequently released its own report on the Smerdon Review in November 2012. The Ombudsman has implemented 46 of the Smerdon Review recommendations with seven recommendations considered unsuitable to proceed or unnecessary in the current circumstances. The remaining four recommendations relate to legislative change and remain unresolved. The committee understands that discussions are ongoing between the Office and the Department of Justice and Attorney-General regarding a suitable timeframe for possible amendment to the Ombudsman Act.⁵⁰

In relation to the impact of the Smerdon Review, the Annual Report 2013-14 notes:

Operational changes undertaken as a result of the Smerdon Review have had a major impact on the Office, particularly on the management and reporting of complaints. They have formed a sound base from which to continue to improve the Office's operations, including corporate services⁵¹

Public Interest Disclosures

The *Public Interest Disclosure Act 2010* (PID Act) encourages disclosure in the public interest of information about wrongdoing in the public sector.⁵² The Office became the oversight agency for the PID Act on 1 January 2013. The Annual Report 2013-14 notes that during the period from 1 July 2014 to 30 June 2014, a total of 725 PIDs were reported to the Office representing a decrease of 38.9% from the previous year.⁵³ In its response to the committee on a Question on Notice in this regard, the Office noted:

The number of PIDs about official misconduct, the most common type of PID, decreased significantly. ... Anecdotal feedback from agencies suggests a number of factors may have contributed to the reduction in the number of PIDs about official misconduct:

⁴⁷ Queensland Ombudsman, *Annual Report 2013-14*, p 47.

⁴⁸ Queensland Ombudsman, *Annual Report 2013-14*, p 47.

⁴⁹ Queensland Ombudsman, *Annual Report 2013-14*, p 52.

⁵⁰ Queensland Ombudsman, *Annual Report 2013-14*, p 52.

⁵¹ Queensland Ombudsman, *Annual Report 2013-14*, p 52.

⁵² Queensland Ombudsman, *Annual Report 2013-14*, p 57.

⁵³ Queensland Ombudsman, *Annual Report 2013-14*, p 57.

- *The arrangements for reporting wrongdoing in the public sector and the role of the Crime and Misconduct Commission were subject to significant public debate during 2013-14. The Queensland Parliament amended the Crime and Corruption Act 2001 to replace 'official misconduct' to a new term and definition, 'corrupt conduct'. This change was also made to the PID Act and both changes commenced on 1 July 2014.*
- *During 2013-14, the public sector went through a significant period of restructuring and down-sizing and this may have had an impact on reporting processes.*⁵⁴

Financial Performance

The general purpose financial statements included in the Annual Report 2013-14 are certified as having been prepared pursuant to (1) section 62(1) of the *Financial Accountability Act 2009*, (2) relevant sections of the *Financial and Performance Management Standard 2009* and (3) other prescribed requirements.⁵⁵ Additionally, the Annual Report 2013-14 includes an independent auditor's report which includes an opinion that the financial reports present a true and fair view, in accordance with the prescribed accounting standards, of the transactions of the Office of the Ombudsman for the financial year 1 July 2013 to 30 June 2014 and of the financial position as at the end of that year.⁵⁶

The committee notes that in 2013-14, the operational budget totalled \$7.563 million. This represented a 4.6% increase from 2012-13. The biggest cost in delivering the Office's services is employee expenses, which represents 77% of the budget. The remaining 23% is expended on general operating costs including accommodation, information and telecommunication costs.⁵⁷

Committee Comment

The committee appreciates the Office's assistance in apprising the committee of its activities during this reporting period. The material provided to the committee prior to and at the hearing, along with material included in the Office's Annual Report, is very informative and provided great assistance to the committee as it monitors and reviews the Office's performance.

The committee congratulates the Office on a year of successful consolidation after completing the implementation of the Smerdon Review recommendations. The committee looks forward to input into, and consideration of, the next strategic review due to commence in 2016.

The committee acknowledges the challenge presented to not only maintain but to improve performance standards and commends the Office on its achievements in this regard, particularly in relation to the further reduction in the time taken to finalise complaints.

The committee is impressed with the Office's continued commitment to extend the reach of the Office to target as broad an audience as possible. This approach assists with ensuring access to the Office's services by, for example, people in regional areas, persons in correctional facilities and homeless persons.

The committee takes this opportunity to express its continued support of the Queensland Ombudsman and his Office.

Recommendation 1

The committee recommends the House note the contents of this report.

⁵⁴ Letter from the Queensland Ombudsman dated 29 June 2015 (Response to Questions on Notice), p 18.

⁵⁵ Queensland Ombudsman, *Annual Report 2013-14*, inside cover page.

⁵⁶ Queensland Ombudsman, *Annual Report 2013-14*, Appendix 11, inside back page cover.

⁵⁷ Queensland Ombudsman, *Annual Report 2013-14*, p 61.

Appendix A - Written Responses to Questions on Notice

Questions on Notice - July 2015

1. Please provide the committee with updated complaint statistics from 1 July 2014 to 31 December 2014 including:

- number of complaints received and finalised;
- proportion of complaints finalised within 12 months of lodgement;
- proportion of complaints more than 12 months old;
- average time taken to finalise complaints;
- proportion of cases resolved informally;
- proportion of complaints investigated where a positive outcome was achieved for the complainant;
- proportion of complaints where there was a finding of maladministration; and
- number of recommendations for improvements in public administration and whether those recommendations were implemented.

Response

Table 1: Complaint statistics

	1 Jul 2013 – 31 Dec 2013	1 Jul 2014 – 31 Dec 2014	Comment
Number of complaints received	3,239	3,549	10% increase
Number of complaints finalised	3,217	3,558	11% increase
Proportion of complaints finalised within 12 months ¹	100%	100%	
Proportion of complaints more than 12 months old ¹	<i>No longer reported – see Clearance Rate measure below</i>		
Clearance rate for complaints ²	99.3%	100.2%	Slight improvement in performance
Average time taken to finalise complaints ³	<i>No longer reported – see Average Time measures below</i>		
Average time to complete assessments ³	5.2 days	6 days	Slight decrease in performance. Still significantly lower than target of 10 days
Proportion of investigations completed within established timeframes ³	94%	97%	Significant improvement (target 90%)
Proportion of complaints resolved through informal resolution ⁴	99%	N/A	
Proportion of complaints investigated where a positive outcome was achieved ⁴	<i>No longer reported – see Rectification measures below</i>		
Proportion of complaints where there was a finding of maladministration ⁴	<i>No longer reported – see Rectification measures below</i>		
Number of investigations	467	600	28% increase
Number of investigations resulting in an agency rectification action	71	134	89% increase
Proportion of investigations resulting in an agency rectification action	15%	22%	Improved performance
Number of recommendations for improvements in public administration ⁵	57	84	47% increase

Number of recommendations implemented ⁶	<i>No longer reported – see Proportion of Recommendations Accepted measure below</i>		
Proportion of recommendations accepted by the relevant agency at the time of reporting ⁷	96%	97%	

¹The two measures, proportion of complaints finalised within 12 months and proportion of complaints more than 12 months old were very closely related. Consequently, the proportion of complaints more than 12 months old measure was discontinued and replaced with a new service standard for the 2013-14 financial year to report on the clearance rate for complaints.

²This service standard compares the number of complaints closed with the number of new complaints opened in the financial year or reporting period. It is affected by both the number and timing of new complaints and closures. A number below 100% does not necessarily indicate an increasing backlog but may be a result of increased numbers of new complaints being opened late in the year or reporting period.

³The average time to complete investigations measure has been discontinued and replaced with two new measures. The first measure, the average time to complete assessments, measures the time taken to undertake a preliminary assessment in the intake area of the Office of matters that do not progress to an investigation (e.g. because the complaint is premature and should be referred back to the agency). The second measure, the proportion of investigations completed within established timeframes, is a new measure that coincided with a new method of categorising matters investigated by the Office. The established timeframes are related to the complexity of an investigation, respectively 14 days for a preliminary investigation, three months for a straightforward investigation, six months for an intermediate investigation and 12 months for a complex investigation.

⁴The three measures, the proportion of complaints resolved informally, the proportion of complaints investigated where a positive outcome was achieved for the complainant, and the proportion of complaints where there was a finding of maladministration are no longer reported. This is due to changes in business practices and the way that complaint outcomes are recorded, meaning that these metrics no longer adequately describe Office performance. These measures have been replaced with a new Service Delivery Statement measure of the proportion of investigations resulting in agency rectification action.

⁵The data excludes recommendations made by this Office's Training and Audit Team in relation to Complaint Management System audits (see responses to Questions 25 and 26 below) and is therefore consistent with the data reported in the Annual Report, relating to recommendations/agreed actions arising from investigations.

⁶This measure was discontinued in the Strategic Plan 2013-18 due to changes to operational practices within the investigative teams.

⁷This measure includes agreed actions where the Office worked with the agency and complainant to negotiate a resolution without the need for a recommendation made under s.50 of the *Ombudsman Act 2001*. Previously, agreed actions were known as informal recommendations.

2. The committee notes in the “Performance snapshot” section of the Annual Report 2013-2014 (Annual Report) that certain targets concerning Key Performance Indicators are listed together with the actual results (see Annual Report, pages 8-9). Can you please provide additional information on who sets these targets and how these targets are set?

Response

The Office of the Queensland Ombudsman is subject to the provisions of the *Financial Accountability Act 2009* and related regulations which require that the Ombudsman, as accountable officer, prepare and publish budget and planning documents to control the operations of the Office. The key performance indicators listed in the Annual Report were developed as part of the process of strategic and operational planning and budgeting. They are set by the Office in consultation with central agencies of government. Each key performance indicator is designed to measure performance of the Office against objectives contained in its strategic plan. A significant number of key performance indicators reported in the Annual Report are also reported as part of the State Budget in the Office's Service Delivery Statement.

The targets are set after careful analysis of historical trends within the Office and comparisons with other Ombudsman offices and like bodies nationally.

3. The committee also notes the reference in the “Performance snapshot” section of the Annual Report to satisfaction surveys which were anticipated to result in an 80% satisfaction rating but which actually resulted in a satisfaction level of 62% (see Annual Report, page 8). Can you please provide information on any plans you may have to improve satisfaction levels from clients?

Response

The 80% client satisfaction target was adopted as an aspirational figure. It aligns the Office’s client satisfaction target with a broad range of client service measures in government and non-government sectors. The measure is based on the service elements of helpfulness, respectfulness, professionalism and timeliness. It does not seek to measure client satisfaction with the outcome of complaint assessments and investigations.

There is an implicit challenge in separating client satisfaction with grade of service from the outcome of complaints. Because the Office’s complaints management processes exist within a broader public sector landscape, the majority of people who bring a complaint to the Office will have their matter declined or referred back to the appropriate agency after a preliminary assessment. Of those matters further investigated by the Office, the majority will either identify no error in the agency decision, or determine that continued investigation is not warranted. In 2013-14, the Office finalised 6,293 complaints of which 900 complaints were investigated by the Office with 156 rectifications identified. These results impact absolute client satisfaction levels.

Notwithstanding these challenges, the Office focuses on identifying and implementing a program of continuous improvement in client service from the research. For example, the two surveys used to measure client satisfaction identify different elements of service, in the different stages of managing a complaint, which are then used to improve client service across the Office.

As a result of the 2013-14 client survey that focussed on complaints investigated by the Office, where client communication was identified as an area requiring improvement, correspondence to clients with matters investigated has been reviewed and, wherever possible, simplified. Additionally, telephone contact with clients has been increased throughout the investigation process to ensure that they are more aware of progress in their matter and provided with greater opportunity to raise concerns. More generally, the Office is undertaking a major transformation of its website and online complaint form in response to ongoing client feedback.

Measurement of client satisfaction will continue with a focus on identifying improvements in client service that add value to the Office’s service delivery while still maintaining its essential role as an independent oversight body across the public sector.

4. The committee notes the total number of contacts received for the 2013-14 period was 11,995 representing a decrease of 21% when compared to 2012-13 (Annual Report, page 13) and a decrease of 44% when compared to 2011-12 (Annual Report 2012-13, page 19 and Annual Report 2011-12, page 6). Can you please elaborate on the reasons attributable to the continued downward trend of the total number of contacts received?

Response

In 2013-14, almost 12,000 Queenslanders contacted the Office, including members of the public, agency officers, Members of Parliament and other community representatives. These matters consisted of 6,308 complaints, 5,134 matters outside the jurisdiction of the Office, 467 general enquiries, 58 review requests and 28 public interest disclosures.

Out of jurisdiction matters

Firstly considering out of jurisdiction matters, the total number of contacts received in 2013-14 significantly decreased from the previous year's 8,241. This is the result of changes to the way in which out of jurisdiction matters received via the Office's online complaint form were recorded and reported. When a person uses the Office's online complaint form to make a complaint about an entity outside the jurisdiction of the Ombudsman, the form generates automatic advice informing them of the appropriate complaints process. Historically, these were described as online referrals and were recorded as out of jurisdiction contacts. In July 2013, the Office stopped recording these matters as referrals and recorded them only as website visits. When these online referrals are excluded from previously reported figures, on a like-for-like basis, there was a 5% increase in out of jurisdiction contacts in 2013-14 compared to 2012-13 (5,053 vs 4,804 respectively).

The number of matters received outside the jurisdiction of the Office in 2012-13 was significantly lower than in 2011-12 (8,241 matters in 2012-13, 12,122 matters in 2011-12). This was predominantly driven by a new telephone on-hold message system introduced in 2012 to provide direct referral advice about out of jurisdiction matters. The website homepage was also upgraded to provide clear guidance on how and where to complain.

In jurisdiction complaints

In regard to in jurisdiction complaints, the Office received 6,308 in 2013-14, compared to 6,363 the previous year. In addition to ceasing to record out of jurisdiction matters received via the online complaint form (discussed above), the Office also stopped recording premature complaints received via the online complaint form, where people simply received automated advice. Before July 2013, these matters were reported as complaints. When a person uses the online complaint form to make a complaint about an agency within the jurisdiction of the Office, but indicates that they have not yet raised the matter with the agency concerned (thus the complaint is considered to be premature), they receive automated advice directing them to raise the complaint with the agency before lodging the matter with this Office. Removing these premature complaints from both years, on a like-for-like basis, the Office received 6,202 complaints, 4% more complaints in 2013-14 compared to 2012-13. (Reference Figure 2, page 14 and Figure 4, page 15 of the Annual Report 2013-14)

The Office received 6,363 complaints in 2012-13, compared to 8,466 the previous year. Prior to April 2012, all out of jurisdiction contacts received in writing were recorded as complaints, before being declined as out of jurisdiction. From April 2012 onwards, all such contacts were recorded as 'out of jurisdiction' solely and, as such, reduced the number of recorded complaints accordingly (approximately 1,200 per year).

5. In terms of the breakdown of the complaints received, the Annual Report states that 66% of the complaints received in 2013-14 related to state government agencies which is an increase of 8% compared to 2012-13 (see Annual Report, page 15 and Annual Report 2012-13, page 21). It appears that this may be due to an amalgamation of the statutory authorities complaints into the state government departments category of complaints. Can you confirm this and also provide any additional information that might explain this increase, if relevant?

Response

In 2013-14, the Office received 4,169 complaints about state agencies, including state government departments and statutory authorities. This represented 66% of all complaints received in 2013-14 and a 2% increase from the 4,217 complaints received in 2012-13 when premature online complaints are removed from the comparison.

As Table 2 below shows, the number of complaints received in relation to statutory authorities increased significantly in 2013-14. This change was driven by restructuring within government departments with TAFE Queensland, Queensland Rail and the Queensland Building and Construction Commission being established as statutory authorities in 2013-14. Previously TAFE Queensland was part of the Department of Education, Training and Employment, Queensland Rail was a government-owned corporation and the Queensland Building and Construction Commission was part of the Department of Housing and Public Works. These three agencies account for 125 additional statutory authority complaints.

Table 2: State agency complaints

	2012-13	2013-14	Absolute growth	Like-for-like growth ¹
State agencies	4,217	4,169	-1%	+2%
Departments	3,663	3,435	-6%	-4%
Statutory authorities	554	734	+32%	+37%
TAFE Queensland		57		
Queensland Rail		49		
QBCC		19		
WorkCover Queensland	91	110		
Legal Aid Queensland	85	98		
Legal Services Commission	39	65		
Q-COMP	6	22		

¹ Like-for-like comparison removes premature online complaints where only automated advice was provided or written matters that were outside the jurisdiction of the Office that were recorded as complaints.

The remaining growth in statutory authority complaints relates to higher numbers of complaints received in 2013-14 from WorkCover Queensland (19 more complaints in 2013-14), Legal Aid Queensland (13 more complaints), Legal Services Commission (26 more complaints) and Q-COMP (16 more complaints). While the percentage increase is significant in each instance, the absolute number of complaints is relatively small and there were no identified trends in the type of complaints received. The number of Q-COMP complaints returned to a level close to 2011-12 when 25 complaints were received.

6. Additionally, in terms of the breakdown of the complaints received, the Annual Report states that 1% of the complaints received in 2013-14 related to “other authorities” which is a decrease from 10% when compared to 2012-13 (see Annual Report, page 16 and Annual Report 2012-13, page 21). This decrease appears to be due to (1) the amalgamation of the statutory authorities complaints into the state government department category; and (2) the fact that premature online complaints were removed from the comparison for the purposes of the Annual Report (see Annual Report, pages 15-16). Could you please provide any additional information that might explain this decrease, if relevant?

Response

This decrease is driven by the amalgamation of statutory authorities and state government departments into one category called ‘state government agencies’.

In 2013-14, 66% of complaints received by the Office related to state government agencies overall, including government departments (3,435 complaints or 54% of the total received) and statutory authorities (734 complaints or 12%). In the 2012-13 Annual Report, state government departments were reported separately (3,663 complaints or 58%) while statutory authorities were combined with ‘other’ complaints. A total of 554 complaints was received in relation to statutory authorities in 2012-13 (9% of the total complaints received).

Consequently, the proportionality of complaints received is consistent for state government agencies, at 66% in 2013-14 compared to 67% in 2012-13.

7. Looking at the total number of complaints received about statutory authorities, the committee notes an overall increase of 37% when (1) compared with the previous year; and (2) premature online complaints are removed from the comparison (see Annual Report, page 18). Can you please provide any information that might explain this increase?

Response

A detailed explanation of the machinery of government changes which led to the reported changes in statutory authority complaint numbers is included in the response to question 5 above.

8. In relation to the breakdown of complaints received about statutory authorities, the committee notes in terms of complaints made about Legal Aid Queensland, there is an overall increase of 13% when compared with the previous year (see Annual Report, page 18). Similarly, in terms of complaints made about the Legal Services Commission, there is an overall increase of 40% when compared with the previous year and in terms of complaints made about Q-COMP, there is an overall increase of 73% when compared with the previous year (see Annual Report, page 18). Do you have any information to explain why these three statutory authorities are experiencing increases in the number of complaints when compared with the previous year?

Response

In most instances, complaint numbers for these statutory authorities returned to levels similar to those in 2011-12:

- at 110 complaints, WorkCover Queensland complaint numbers returned to a level closer to 2011-12 when 119 complaints were received

- the Office received 98 complaints relating to Legal Aid Queensland in 2013-14, an increase of 13 complaints on 2012-13 but close to the 102 complaints received in 2011-12
- the number of complaints received in relation to the Legal Services Commission increased most in absolute terms in 2013-14 in relation to statutory authorities. In some instances, a number of related complaints may be part of one complex case. In one case related to the Legal Services Commission in 2013-14, 12 complaints (issues) related to one complex case investigated.

Because of the relatively small numbers of complaints related to each statutory authority, the proportional shifts can appear large. There was no discernible factor which contributed to the changes in the number of complaints for statutory authorities in 2013-14 and, as shown, annual numbers can vary considerably without reflecting a trend in absolute terms.

9. Conversely, in relation to the breakdown of complaints received about statutory authorities, the committee notes in terms of complaints made about the Public Trustee, there has been an overall decrease in complaints over the last three years from 196 complaints in 2011-12, to 182 in 2012-13, then to 169 in 2013-2014 (see Annual Report, page 18). Do you have any information to explain why this statutory authority is experiencing a decrease in the number of complaints when compared with the previous two years?

Response

The Office has not been able to identify any specific reason for the decline in complaints relating to the Public Trustee. There is no apparent change in the nature of contacts received. As outlined above, annual variations in complaints numbers do not necessarily reflect trends or patterns in complaint numbers for a particular agency. However, as agencies continue to improve their business processes and internal complaints process, it is possible, and desirable, that the number of Ombudsman complaints related to those agencies may fall in both proportional and absolute terms.

10. In relation to the complaints received about local councils, there has been an overall increase of 10% compared with the previous year when premature online complaints are removed from the comparison (see Annual Report, page 19). The committee also notes that the increases particularly relate to complaints received in relation to rates and valuations, water supply, complaint handling and waste management. Can you please provide any additional details to explain why the local councils are experiencing the increases in the number of complaints, particularly in the areas listed above?

Response

The local council complaint areas experiencing the highest growth in 2013-14 are:

- the levying of rates and valuations with 60 more complaints
- matters relating to water supply, particularly in relation to fees or charges imposed, including charges for excess water, maintenance or the quality of service provided, with 55 more complaints
- waste management matters, including contracting arrangements, fees or charges imposed, or service quality, with 54 more complaints.

The number of rates and valuations complaints received in 2013-14 (244) is the highest in the category since 2010-11 when 283 complaints were received. So, although 2013-14 saw an increase in this category, it is not the highest number of complaints received in this

category over the recent past. Considering the 2013-14 complaints, there is no discernible reason for the increase, other than one particular council which had a number of complaints (approximately 20) relating to its adoption of a new differential rating system, where land owned by investors was distinguished from owner-occupied land and rated at a higher level. These complaints were all referred back to council as premature, and, ultimately, the council's differential rating system relating to the category for non-owner occupied land was held invalid by the Supreme Court – *Paton & Ors v Mackay Regional Council [2014] QSC 75*.

The number of water supply complaints in 2013-14 was influenced heavily by Gold Coast City Council related complaints (33), of various types. Allconnex, a joint water retailer, ceased operations on 1 July 2012 with water supply services then reverting back to Gold Coast, Logan and Redland City Councils. Although residential customers have rights to complain to the Energy and Water Ombudsman for Queensland, the Office retains jurisdiction in relation to non-residential customers. So, it saw a minor spike in water complaints in 2012-13 reflecting the three councils coming back into providing water to their communities and this increase continued in 2013-14. However, only the increase in the Gold Coast City Council's complaints was notable (33). These increases however are still small numbers in the overall volume of complaints and reflect a wide variety of issues, none of which is remarkable individually.

The number of waste management complaints received by the Office in the period was heavily influenced by the Gold Coast City Council's review of the provision of waste services throughout the city, which included a decision in May 2013 to close the Maudsland waste transfer facility and to introduce a kerbside collection service. This resulted in 29 complaints to the Office.

An analysis of complaints about complaints management in councils does not show any discernible pattern of issues.

Overall, while there is no single reason for the increases in complaints in the respective categories, there were, in the rates and valuations and waste management categories, decisions by particular councils which influenced the increases. This does not mean of course that these decisions by councils were unreasonable, simply that residents complained about the decisions.

11. In relation to the complaints received about public universities, there has been an overall increase of 9% compared with the previous year when premature online complaints are removed from the comparison (see 2013-14, page 19). Can you please provide any additional details available to you to explain why the public universities have experienced an increase in the number of complaints particularly in the areas of enrolment and assessment?

Response

An analysis of the data shows no specific area driving the overall growth in complaints received about universities. The breakdown of the total number of complaints tends to result in small absolute numbers. At a broad level, more complaints were received in relation to the University of the Sunshine Coast, University of Southern Queensland, Queensland University of Technology and James Cook University, while fewer complaints were received about the University of Queensland, Griffith University and Central Queensland University.

More enrolment complaints were received in 2013-14 relating to fees (26 complaints versus 21 complaints in 2012-13) and procedures (35 complaints versus 28 in the previous year). The majority of assessment complaints relate to the review of grades with 36 such complaints received in 2013-14 (65% of all assessment complaints received) versus 27 in 2012-13 (55%). In both instances, complaints were received from a range of universities.

12. While it is pleasing to see the average number of days for a complaint to be finalised has decreased, the committee notes that the percentage of complaints finalised within 10 days has actually decreased over the past three years from 84% in 2011-12, to 79% in 2012-13, then to 71% in 2013-14 (see Annual Report, Figure 10, page 21). Could you please elaborate on why this might be the case?

Response

Because of complexities in the historic data, the calculations used to derive the reported time taken to finalise complaints are based on total complaints finalised in each year, with no adjustment made subsequently for changes in how matters were defined or counted over the three year period. Consequently, the following changes to definitions and counting have not been considered in the analysis:

- matters previously accepted as a complaint but subsequently determined to be outside the jurisdiction of the Office (ceased July 2012)
- premature complaints previously received via the online complaint form, where people simply received automated advice (ceased July 2013)
- complaints received by telephone that required a further written submission. Prior to July 2012, such complaints were closed with a second complaint file subsequently created if the person provided a written submission. Since July 2012, a file created in such instances remains open for 14 days to allow people to provide written information if necessary.

In 2011-12, 1,206 complaints received in writing were subsequently determined to be outside jurisdiction (14% of complaints finalised). The time to close a complaint within this category would vary depending upon the amount of material provided and its complexity. However, in many cases it would be clear that the matter was outside the jurisdiction of the Office and turnaround would be fairly prompt.

Premature online complaints prior to July 2012 were dealt with instantaneously and would contribute to a higher proportion of complaints being dealt with in less than 10 days. In 2011-12, there were 351 such complaints, or 4% of the total complaints finalised. In 2012-13, there were 298 such complaints or 5% of complaints finalised.

In 2012-13, 188 complaints received by telephone were declined after 14 days as information requested from the complainant was not received (3% of complaints finalised). Previously these complaints would have been closed immediately and would thus have fallen within the complaints closed in less than 10 days category. In 2013-14, there were 370 such complaints (6% of complaints finalised). This action is now used more frequently when information is collected from complainants in order that the Office may directly refer their complaint to the appropriate agency (refer to question 13).

It is also noteworthy that both the percentage of complaints finalised within 30 days and the percentage for more than 60 days has improved. In 2012-13, 93% of complaints were finalised in 30 days or less while only 3% of complaints took more than 60 days. This compares with 2011-12 when 89% of complaints were finalised in 30 days and 7% of complaints took more than 60 days.

Overall, I am confident that the practices introduced over the last three years have led to an improvement in the timeliness of the initial assessment process and investigations generally. The various changes to definitions and counting processes have tended to obscure that improvement. I am also confident that the definitions and counting processes accurately reflect the effort of the Office in assessment and investigation of complaints.

13. The committee notes that your Office directly referred 618 premature complaints in 2013-14 compared to 395 complaints in 2012-13. Can you please provide some additional details regarding this significant increase (see Annual Report, page 23)?

Response

The increase in premature complaints directly referred to agencies reflects changes in business processes which are designed to improve the service provided to complainants. Responses to both client and agency feedback indicated that the Office directly referring matters received prematurely provided an enhanced opportunity for an agency to properly consider each complaint, while retaining the complainant's right to ultimately bring the matter back to the Office if they remained dissatisfied with the agency response.

Where a client has not yet exhausted an agency's Complaints Management System (CMS), the complaint will generally be declined as premature, unless the complaint raises serious or systemic issues which justify immediate investigation.

To assist complainants to progress their complaint, the Office receives details of their complaint, and, with their consent, it is forwarded to the agency for proper consideration. Where necessary, complaints are kept open for up to 14 days to allow the complainant to provide relevant information. This option is of particular assistance to complainants who are disadvantaged in progressing their complaint due to literacy, language skills, age, disability or incarceration. Where a complainant identifies they have difficulty writing, this Office offers to document the complainant's verbal complaint and refers it to the agency.

In selected cases the agency is requested to provide this Office with a copy of its response to the complainant to enable monitoring of the action taken by the agency.

This service continues to be expanded, with 791 premature complaints referred directly to agencies in the period 1 July 2014 to 31 May 2015.

14. The committee would be grateful for additional information on the work undertaken to improve awareness and accessibility among the homeless community (see Annual Report, page 25).

Response

Ombudsman officers, as an important element of ongoing targeted community engagement, attend a number of events to promote awareness of the Office and its services. These included:

- the Homeless Connect events in November 2013 and May 2014 in Brisbane to advise of the Ombudsman role, take complaints and offer referral to services outside this Office's jurisdiction. Information bags were handed out at these events to participants and service providers
- the Street Links events in October 2013 and June 2014 in Ipswich to advise of the Ombudsman role, take complaints and offer referral to services outside this Office's jurisdiction. Information bags were handed out at these events to participants and service providers
- a presentation to caseworkers from the Queensland Public Interest Law Clearing House Incorporated (QPILCH) Homeless Persons' Legal Clinic in February 2014.

15. The Annual Report indicates that Queensland Corrective Services requested that your Office delay visits to the two remaining correctional centres until after July 2014 (see Annual Report, page 25). Can you please confirm whether these visits have now taken place and the purpose of these visits?

Response

The visits that were the subject of the request were to Townsville Correctional Centre and Wolston Correctional Centre. Visits to both centres were subsequently undertaken between 23 and 25 July 2014 and 30 and 31 July 2014 respectively. They were part of the Office's correctional centre visits program where each correctional centre is visited at least annually.

The purpose of the visits is to enable Ombudsman officers to investigate and resolve complaints, investigate systemic issues, provide information and advice to centre management and audit administrative processes.

16. The committee understands that the estimated number of web hits to the Ombudsman's website during 2013-14 was 103,390. This represents an increase of 33% compared to the previous year (see Annual Report, page 25). Other than the improvements made to the website structure, content and enhancement of links, are you aware of any other improvements or actions that might warrant this increase?

Response

The estimated increase in web hits in 2013-14 is 13,565, or 15% compared to the previous year. While it is not possible to conclusively attribute an increase to a particular reason, possible reasons include:

- it being the first full year where the Office was responsible for the monitoring and reviewing of the management of Public Interest Disclosures
- agency employees visiting the website in relation to training sessions and this is reflected in an increase in demand for training by public sector officers
- improvements to the online complaints form
- an increased number of subscribers visiting the Office's website from links contained within newsletters
- the level of interest in the Office's published public reports.

The Office continues to promote access to its services through its website. During 2014-15, a project to redesign and enhance the Office's website, including the online complaints form and information for complainants and agencies, has progressed significantly. This builds on previous projects which have sought to improve aspects of the website over time and will contribute significantly to both improved client service and efficiency in handling complaints within the Office.

17. The Annual Report states that your officers have visited 57 regional centres across Queensland as part of a Regional Services Program which was launched on 1 July 2013. Can you please provide a list of the regional centres visited this year and a breakdown of those visits by purpose (see Annual Report, page 24)?

Response

The following 57 regional centres were visited (the principal purpose(s) of the visit is shown in each case and other activities may also have been undertaken as part of a visit):

Table 3: Regional Services Program – centres visited

Centre	Activity
Aramac	visit Queensland Government Agent Program (QGAP) office
Atherton	training
Ayr	training
Barcaldine	visit council complaints manager and QGAP office
Biloela	visit QGAP office
Blackall	visit QGAP office and council complaints manager
Blackbutt	visit QGAP office
Bundaberg	training
Cairns	training
Cardwell	training
Charleville	training
Charters Towers	presentation to council and visit community group
Cherbourg	presentation to council and visit Community Justice Group
Childers	visit QGAP office
Cloncurry	presentation to council, visits to QGAP office and Community Justice Group
Cooktown	training
Cunnamulla	presentation to council, visits to council complaints manager and QGAP office
Dalby	training
Eidsvold	visit QGAP office
Emerald	training
Fraser Island	training
Gatton	training
Gayndah	visit council complaints manager
Gin Gin	visit community group
Gladstone	training
Gympie	presentation to council
Hervey Bay	training
Ingham	training
Innisfail	training
Kilkivan	presentation to council
Kingaroy	training
Longreach	training
Mackay	training
Mareeba	training
Maryborough	training
Monto	presentation to council
Mount Isa	training
Mundubbera	visit QGAP office
Murgon	visit QGAP office
Nanango	visit QGAP office
Proserpine	training
Rainbow Beach	visit community group
Roma	training
Rockhampton	training
Stanthorpe	visit Member of Parliament's office and QGAP office
St George	visit council complaints manager and Member of Parliament's office
Surat	presentation to council service centre and visit QGAP office
Tara	training
Toowoomba	training
Townsville	training and investigation

Warwick	training
Winton	visit QGAP office and council CEO
Wondai	visit QGAP office
Woorabinda	visit council complaints manager
Wujal Wujal	visit Community Justice Group and presentation to council
Yarrabah	visits to QGAP office, Community Justice Group and council CEO
Yeppoon	visit QGAP office and presentation to council

18. For the period 1 July 2014 to 31 December 2014, how many visits did your officers make to regional centres to (a) undertake investigations, (b) visit correctional centres, and (c) conduct training?

Response

For the six months to 31 December 2014, regional centre visits were comprised as follows:

- (a) undertake investigations - 0
- (b) visit correctional centres - 2
- (c) conduct training - 32.

19. The Annual Report indicates that you plan to expand the Regional Services Program as a priority for 2014-15 to key regional centres not visited this year (see Annual Report, page 24). Can you please provide the committee with a list of the key regional centres that you intend to visit under the Regional Services Program next year?

Response

The Regional Services Program is a key activity for the Office aimed at ensuring that regional Queenslanders and agencies have access to its services and awareness of its role. Specific visits to agencies and locations are planned based on demand from agencies and community bodies as well as scheduling opportunities that arise as the year progresses. For example, demand for a training program in a particular location may lead to engagement with local community groups being organised or visits to other communities in the area.

Areas of the state targeted for expansion of the Regional Services Program in 2014-15 included Lockyer Valley, Somerset, Western Downs and Scenic Rim council areas, which had not been visited in 2013-14 and were therefore a priority. QGAP offices, community groups and organisations and complaints managers were visited in each case, according to availability.

Ombudsman officers did not return to areas previously visited in 2013-14 unless there was a specific demand (e.g. training) or a request from an agency, council or community group to visit the area to deliver a service. Full details of the 2014-15 Regional Services Program will be available in the Annual Report.

20. The committee notes that during 2013-2014, you have published three public reports: (a) the Liquor Report; (b) the Ownership Transfer Fee Report; and (c) the Water Licences Report. Can you please advise the committee if there have been any other additional public reports since 1 July 2014?

Response

The Strip Searching of Female Prisoners Report: An investigation into the strip search practices at Townsville Women's Correctional Centre was tabled in the Parliament in September 2014. The report outlined the findings of an investigation into Townsville Women's Correctional Centre's practice of conducting strip searches on female prisoners receiving a certain class of restricted medication between June 2013 and March 2014. The investigation revealed that the practice was both unreasonable and contrary to law and was not reviewed by the centre or Queensland Corrective Services during the 10 month period it was implemented.

21. In relation to the Liquor Report, can you provide further information regarding the response to your 18 recommendations?

Response

Monitoring of agency responses to public reports, particularly the implementation of recommendations, can be a particularly resource intensive process, involving many hours of investigator time. Therefore, the Office carefully balances the resources necessary to monitor implementation with the overall commitment and responsibility of each agency to implement those recommendations that they have agreed with. The Office currently follows up implementation of agreed recommendations in major reports for 12 months and then on an ongoing basis through future investigations based on complaints received or on my own initiative.

In regard to the Liquor Report, the Director-General of the Department of Justice and Attorney-General, in his latest report to the Office, has advised that work to complete the department's implementation of the report's recommendations is ongoing.

Based on his advice, including specific evidence of changes within the department, I consider 13 of the recommendations have been implemented, three have been partially implemented and two remain unimplemented. The Office's detailed monitoring of this case is now closed unless future events bring to light evidence which suggests that the department has failed to finalise the remaining recommendations as agreed.

22. In relation to the Water Licences Report, can you please also provide further information regarding the response to your 9 recommendations?

Response

The investigation which led to the Water Licences Report being tabled in the Parliament related to administration of water licences under the *Water Act 2000* and related regulations and policies. Subsequently, the previous government introduced the *Water Reform and Other Legislation Amendment Act 2014* which significantly amended the regulatory framework for water licences in the state.

Consequently, assessment of the implementation of the report's recommendations remains in progress. The assessment requires consideration of the impacts of amendments to the *Water Act 2000* by the *Water Reform and Other Legislation Amendment Act 2014* and new practices and procedures introduced by the department. To date, I regard two recommendations (6 and 7) to have been implemented or substantially implemented.

23. It is pleasing to see there has been further growth in the number of subscriptions to your office's publications from a target of 5% to an overall increase of 10% (see Annual Report, Table 3, pages 8 and 43). In particular, the committee notes an increase of 27% for the *Legal Perspective* newsletter and 145% for the *Community Perspective* newsletter. Are you aware of the reasons for this improvement? Also, do you have any additional information on the characteristics of the new subscribers?

Response

Perspective newsletters provide a key strategy in the Office's ongoing engagement with, and advice to, agencies and the community.

Community Perspective is a recent addition to the newsletters offered by this Office and therefore has a much smaller subscriber base than other newsletters. Any increase in subscriptions will appear to be a significant increase. Most subscribers to *Community Perspective* are agency officers who undertake work in a community environment/focus.

Legal Perspective subscribers are made up of officers from a number of regional Queensland councils, a range of Queensland state agencies, as well as a number of legal officers from private practices.

The Office makes a concerted effort to increase subscribers to the newsletters. There are a number of methods used including:

- distributing newsletters and signing up subscribers at community events and information sessions
- actively promoting the newsletters through training programs and through enquiries and bookings
- advising agency and council staff through Office interactions (meetings, audits, advice, Regional Service Program).

24. While the proportion of clients who report they are satisfied or very satisfied with the service of the Office was anticipated to be 80%, the actual result, based on two surveys conducted in 2012-13 and 2013-14, was 64% (see Annual Report, Table 1, page 8). The Committee is interested to learn whether you have instituted any specific measures as a result of this survey to try to increase the satisfaction level of clients.

Response

Please refer to the response to question 3 above.

25. The committee notes that during this financial year, the Office has undertaken a complaint management systems review (CMS) of 15 public agencies (see Annual Report, page 42). Can you please advise of the numbers of recommendations made in respect of each review and the number of these recommendations which were accepted by the relevant public agency?

Response

As result of the 15 reviews undertaken, 86 recommendations were made and accepted by agencies as follows:

- Department of Natural Resources and Mines (7)
- Valuers' Registration Board of Queensland (7)

- Department of Agriculture, Fisheries and Forestry (9)
- Department of Environment and Heritage Protection (7)
- Department of Justice and Attorney-General (4)
- Anti-Discrimination Commission Queensland (5)
- Electoral Commission Queensland (13)
- Legal Aid Queensland (6)
- Legal Services Commission (4)
- Office of the Adult Guardian (1)
- Office of the Public Advocate (0)
- Department of Energy and Water Supply (5)
- Department of Housing and Public Works (4)
- Department of National Parks, Sport and Racing (7)
- Racing Queensland (7).

All recommendations have been accepted by the respective agency.

26. Additionally, the committee notes that the 15 state government agencies were asked to report on the implementation of the accepted recommendations. The Committee would be grateful if you would update the Committee regarding the status and nature of the responses from each of the 15 state government agencies (see Annual Report, page 42).

Response

As part a recent follow-up with the 15 agencies, the agencies have advised as follows in regard to complaints management system reviews:

Agencies – implementation fully completed

- Electoral Commission of Queensland
- Legal Aid Queensland
- Office of the Adult Guardian.

Agencies – implementation substantially completed

- Department of Environment and Heritage Protection
- Department of National Parks, Sport and Racing
- Racing Queensland
- Department of Agriculture, Fisheries and Forestry.

Agencies – implementation partially completed and in progress

- Department of Energy and Water Supply
- Department of Justice and Attorney-General
- Valuers' Registration Board of Queensland
- Legal Services Commission
- Anti-Discrimination Commission Queensland
- Department of Natural Resources and Mines
- Department of Housing and Public Works.

27. While the committee understands that the next staff satisfaction survey is not scheduled until 2015, are you aware of any staff satisfaction issue that was raised during the 2012-2013 staff survey that still requires addressing? If so, are you considering any additional strategies in this regard?

Response

The staff survey is a valuable tool to obtain feedback from staff in relation to the Office and provides opportunities to identify improvements in both Office climate and work procedures. As an outcome of the staff survey in 2013, the Office implemented a number of strategies, including focused professional development and formal staff meetings in response. These initiatives are still in place.

The most recent staff survey, undertaken in February 2015, is still being analysed and discussed within the Office to identify specific strategies and actions necessary to respond to identified areas of need. This particular staff survey was undertaken at a more detailed business unit level allowing for more detailed analysis and targeting of strategies. New initiatives will be discussed in the upcoming Annual Report for 2014-15.

28. Has the Office undergone funding or staffing cuts in the period since July 2014? If so, how has this impacted on the operations of the Office?

Response

The Office has not been subject to any funding or staffing cuts in the period since July 2014.

29. In 2013-2014, the Office experienced a 67% increase in training sessions delivered compared to the previous year (see Annual Report, page 44). Is there anything specific that you can point to in terms of actions by your office that might have contributed to the greater uptake of training during the last financial year?

Response

The Office's training programs are a major element in assisting agencies to improve their administration, including complaints management. Agencies regularly report very high levels of satisfaction with training delivery and high levels of relevance to their work.

While it is difficult to specifically attribute additional demand for training programs to individual events, it is likely that the following activity contributed:

- providing services through the Regional Services Program – advice, visiting complaints officers, short presentations on training topics which provided a sample of the training
- developing further contacts in the regions
- phone and email contact replaced written contact in regional areas
- agencies booking further sessions after successful previous delivery.

In addition, 2012-13 was a year in which agencies were subject to considerable change and which resulted in caution in committing to external training. Demand for the Office's training services in this year was significantly lower than historical levels. The rebound to historic highs in training demand in 2013-14 was welcome and has continued in 2014-15.

30. Can you please provide information on the demand for training in the period from 1 July 2014 to 31 December 2014? Also, do you have any predictions of the demand for training sessions in the six month period from 1 January 2015 to 30 June 2015?

Response

From 1 July to 31 December 2014, 78 training sessions were delivered throughout Queensland.

From 1 July 2014 to 30 June 2015, 154 sessions were delivered or planned for delivery.

31. Are there any significant budgetary matters that you wish to raise with the committee?

Response

There are no significant budgetary matters that need to be raised with the committee.

32. The Annual Report describes a decrease in the total number of public interest disclosures by 38.9% on the previous year. Can you please provide the committee with any additional information concerning the reasons behind this decrease?

Response

The annual report shows a 38.9% decrease in the total number of public interest disclosures (PIDs) reported to the Queensland Ombudsman, as PID oversight body, compared with the previous year. In 2012-13, 1,140 PIDs were reported to the oversight body; in 2013-14, 725 PIDs were reported to the oversight body.

The number of PIDs about official misconduct, the most common type of PID, decreased significantly. In 2012-13, 1,036 PIDs were about official misconduct; in 2013-14 this had decreased to 658 PIDs. PIDs about all other matters, including maladministration, misuse of public resources and disability also decreased, from 104 in 2012-13 to 66 in 2013-14.

A comparison of PID reporting data (2012-13 to 2013-14), shows no significant changes in the overall proportions of PIDs by agency type, by type of discloser, by location of subject officer or by investigative outcomes.

Anecdotal feedback from agencies suggests a number of factors may have contributed to the reduction in the number of PIDs about official misconduct:

- The arrangements for reporting wrongdoing in the public sector and the role of the Crime and Misconduct Commission were subject to significant public debate during 2013-14. The Queensland Parliament amended the *Crime and Corruption Act 2001* to replace 'official misconduct' to a new term and definition, 'corrupt conduct'. This change was also made to the PID Act and both changes commenced on 1 July 2014.
- During 2013-14, the public sector went through a significant period of restructuring and down-sizing and this may have had an impact on reporting processes.

33. Please provide the committee with updated statistics on public interest disclosures from 1 July 2014 to 31 December 2014.

Response

Recent changes to the *Public Interest Disclosure Act 2010* have had an impact on the number of PIDs reported to the oversight body.

On 1 July 2014, 'corrupt conduct' became a type of public interest information that may be disclosed by a public officer. 'Corrupt conduct' replaced 'official misconduct', consistent with changes to the *Crime and Corruption Act 2001*.

The new definition of 'corrupt conduct' includes four key elements and, in effect, sets a higher threshold to capture more serious matters than the previous 'official misconduct' definition. Some matters that would previously have been categorised as 'official misconduct' do not meet the new tests for 'corrupt conduct' and therefore will not be categorised as PIDs. Such matters are now managed by public sector entities as complaints or grievances.

In the PID oversight annual report for 2013-14, it was foreshadowed that this change was likely to reduce the total number of matters reported as PIDs in 2014-15.

From 1 July to 31 December 2014, 222 PIDs were reported to the oversight agency. This includes 158 reports of corrupt conduct and 24 reports of official misconduct (this reflects the transitional period where matters reported to entities prior to the commencement of the new definition must be reported to the oversight agency).

Other reported PID information does not show any significant changes in the overall proportions of PIDs reported by agency type, by type of discloser, by location of subject officer or by investigative outcomes.

Overall, the number of PIDs reported to the oversight agency in the first half of 2014-15 decreased by 37% when compared with the first half of 2013-14. It is estimated that the total number of PIDs reported in the full 2014-15 financial year will be around 450.