



Ombudsman Tasmania

Annual Report 2021-2022



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Letter to Parliament

The Honourable President of the Legislative Council
The Speaker of the House of Assembly

Pursuant to section 30 of the *Ombudsman Act 1978*, I present to the Parliament the Annual Report of the Ombudsman for 2021-2022.

Yours sincerely

A handwritten signature in black ink, consisting of a large, stylized 'C' with a vertical line through it, followed by a horizontal stroke.

Richard Connock
OMBUDSMAN

3 November 2022

About this Report

This report describes the functions and operations of Ombudsman Tasmania for the year ending 30 June 2022.

It is available in print or electronic viewing format to optimise accessibility and ease of navigation. It can also be made available in alternative formats to meet the needs of people with a disability. Requests should be directed to the Executive Officer at 1800 001 170 or ombudsman@ombudsman.tas.gov.au.

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From the Ombudsman

As I reported last year, the office continued to return largely to the way we worked pre-pandemic, and though we continue to be using electronic records more than paper ones, face to face meetings began to take place again. There was a brief return to restrictions following the reopening of Tasmania's borders in December 2021, but these too have now eased.

We continue to be flexible in our approach to work, with some people still working from home, albeit on a limited basis: we have continued to once again maintain essentially a full presence in the office during the reporting year.

As always, I am grateful to my staff across all jurisdictions for their patience, cooperation and willingness to adapt, all of which have allowed us to fulfil our various functions to an impressively high standard.

These include a wide range of functions and the provision of a diversity of services to the community. In addition to being the Parliamentary Ombudsman, I am also:

- the Health Complaints Commissioner;
- the Energy Ombudsman;
- the de facto Tasmanian Information and Privacy Commissioner; and
- the Tasmanian Custodial Inspector.

I have also now been appointed as Tasmania's National Preventative Mechanism for the purposes of the United Nations Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, known as OPCAT. The *OPCAT Implementation Act 2021* under which I was appointed, does not require me to report publicly on the performance of my NPM functions, but this report contains some information as to how the implementation of OPCAT is being managed.

The *Custodial Inspector Act 2016* requires me as Inspector to report separately on the functions and activities of that Office. The Custodial Inspector's Annual Report is available on the website www.custodialinspector.tas.gov.au

As Commissioner, I am also required by the *Health Complaints Act 1995* to report separately, and the Health Complaints Commissioner's Annual Report can be found on the website at www.healthcomplaints.tas.gov.au I am not, however, required to produce a separate report under the *Energy Ombudsman Act 1998* so include information about that jurisdiction in this report.

As well as fulfilling the responsibilities of the above positions, and by virtue of holding one or other of those offices, I am also:

- the Principal Mental Health Official Visitor and the Coordinator of the Prison Official Visitor Scheme;

- the inspection entity under the *Police Powers (Controlled Operations) Act 2006*, the *Police Powers (Surveillance Devices) Act 2006*, and the *Telecommunications (Interception) Tasmania Act 2006*;
- I have a reporting function concerning Tasmania Police's compliance with certain provisions of the *Misuse of Drugs Act 2001*¹; and
- I am required by s20F(1) of the *Police Offences Act 1935* to review the operation of Division 111 of that Act which contains provisions concerning consorting within four years of its commencement.

The activities of the Office returned to pre-pandemic levels last year and in this reporting year there was a significant increase in the number of complaints and enquiries received.

As noted above, face to face meetings have resumed, though in the main, participants can still elect to attend electronically; restrictions in other states have been more severe and continued for longer than in Tasmania. To meet the requirements of my various functions referred to above, conferences have taken place either virtually or face to face with:

- the Australia and New Zealand Energy and Water Ombudsman Network (ANZEWO)
- Parliamentary Ombudsmen;
- Health Complaints Commissioners;
- the Australia New Zealand Ombudsman Association (ANZOA);
- the Association of Information and Access Commissioners (AIAC);and
- the Australia Pacific Ombudsman Region (APOR).

¹ [My report](#) under that Act forms part of this report, see page 37.

Staffing and Resources

The most noteworthy thing to report this year is that there has been a material, and welcome increase to the recurrent funding allocated to the office as a whole. This additional funding commenced in the reporting year and continues at increasing levels over a three year period. It was sought primarily to address staffing gaps across jurisdictions that have been with us for many years, and will allow us to recruit additional officers to all jurisdictions. These additional officers will greatly ease the burden on current members of staff and allow us to deal more effectively with our increasing workloads. We also received funding to lease additional premises to accommodate the extraordinary influx of new staff. This is the most significant increase in the office's funding, at least in the time that I have been associated with it.

There have already been some changes in the Custodial Inspectorate, with the addition of another permanent officer and an allocation for a motor vehicle, and in Health Complaints where there is now a dedicated Conciliation Officer, something we have not had for some time. I refer to the annual reports of those two officers which contain more detail in this regard.

An important consequence of the additional resourcing is that I am now able to appoint a Deputy Ombudsman. For many years, Ombudsman Tasmania has been the only Australian Ombudsman which has not had a Deputy, but is one of the busier offices responsible for numerous jurisdictions. The Deputy will hold full delegations from me and will assume responsibility for the Ombudsman, Energy Ombudsman and Right to Information jurisdictions and deputise for me when I am absent from the Office. The position also provides high level advice to me and the office's management team and will free me to become more active in other areas such as Health Complaints and the Custodial Inspectorate. This appointment should be completed in the first part of the next reporting year.

There have been some staffing movements and changes during the reporting year, including the appointment of a permanent, full time Band 8 Principle Officer in Right to Information in December 2021. A fixed term, 0.08FTE Band 6 Health Senior Investigation Officer took up a secondment with another agency, and an internal Expressions of Interest Process resulted in the Band 6, Right to Information Investigation and Review Officer taking up that position, and her substantive position has now been filled on a fixed term contract basis.

The additional funding, together with savings made, also means that there are sufficient funds to enable the filling of a number of fixed term positions, particularly in Right to Information and Office Administration, but recruitment has proven difficult. For example:

- Funding was available to engage a Senior Project Policy Officer to conduct a review and update of all our internal policies and procedures. The first time the position was advertised, however, there were no applicants and the second time, there was one suitable applicant who withdrew at the last minute. Rather than go through the process a third time, external consultants were engaged.
- It took two rounds of applications before a Senior Inspection Officer (Custodial Inspectorate) was appointed.
- Additional funding was also set aside for a second, fixed term, Senior Inspection and Review Officer to work on the historical backlog of historical applications for review in

Right to Information. The Position was advertised on three separate occasions with no suitable candidates identified. It will be advertised a fourth time.

- A recruitment process was initiated in the hope of appointing two Senior Investigation Officers in Health Complaints. Two suitable candidates were identified but one withdrew their application before an appointment was offered and the other declined an offer. The positions will be readvertised.

These recruitment difficulties, coupled with staff absences, have meant that we have not been able to capitalise on the additional resourcing. It is anticipated that the situation will improve dramatically in the next year, however, and I look forward to being able to report on improvements and advances across the whole of the office.

Staff Training

Very few opportunities for training were identified during the reporting year, though staff and managers attended a trauma informed training session conducted by the Sexual Assault Support Service. We continue to be on the lookout for relevant training opportunities.

The Role of the Ombudsman

The Ombudsman is an independent statutory officer appointed by the Governor pursuant to the *Ombudsman Act 1978* (the Act) and answerable to the Parliament.

The primary role of the Ombudsman and his staff is to investigate the administrative actions of public authorities to ensure that those actions are lawful, reasonable and fair. We work in an independent, impartial and objective way to resolve complaints and to address systemic problems in order to improve the quality and standard of Tasmanian public administration. The services of the Ombudsman are free.

Public authorities that come within the jurisdiction of the Ombudsman include government departments, local government councils, TasWater, the prison service, state-owned companies and Government Business Enterprises. The Ombudsman also has a broad range of functions and roles conferred by a number of other statutes.

Ombudsman Act Functions

The Ombudsman can accept a complaint from any person who is personally aggrieved by the administrative actions of a Tasmanian public authority, and who has tried unsuccessfully to resolve his or her complaint directly with the authority. The great majority of matters are resolved by way of preliminary inquiries made pursuant to s 20A of the Act and involve a co-operative approach where public authorities provide information and evidence and work with us to address complaints and improve administrative process.

If the circumstances warrant it, I may also choose to conduct an investigation either on the basis of a complaint or, particularly where systemic issues are involved, on my own motion.

At the conclusion of an investigation, whether it be of a complaint or on my own motion, a report is prepared for delivery to the authority concerned. Section 28 of the Act provides that if I have formed the opinion that the action investigated:

- (a) appears to have been taken contrary to law;
- (b) was unreasonable, unjust, oppressive, or improperly discriminatory;
- (c) was taken in accordance with a rule of law or a provision of an enactment or a practice that is or may be unreasonable, unjust, oppressive, or improperly discriminatory;
- (d) was taken in the exercise of a power or discretion and was so taken for an improper purpose or on irrelevant grounds or on the basis of irrelevant considerations;
- (e) was a decision made in the exercise of a power or discretion and the reasons for the decision were not, but should have been, given;
- (f) was based wholly or partly on a mistake of law or fact; or
- (g) was wrong;

I can, amongst other things, make recommendations to address and rectify the subject action.

A report can also be delivered to the relevant Minister and/or Parliament. My office has no coercive power in relation to the adoption of recommendations but is dependent on constructive negotiation and persuasive argument. My recommendations are ordinarily accepted and acted upon.

Right to Information Reviews

My office is the avenue for the external review of decisions made by public authorities not to release the information sought in applications for assessed disclosure under the *Right to Information Act 2009*. If, at the conclusion of a review, I am of the view that the authority's decision was incorrect, I can make a fresh determination.

Public Interest Disclosures

The Ombudsman has a significant role under the *Public Interest Disclosures Act 2002* to receive and investigate public interest (or “whistleblower”) disclosures and oversee the manner in which public authorities deal with such disclosures.

Personal Information Protection

My office can also take complaints concerning alleged breaches of the *Personal Information Protection Act 2004* when the person has complained of the alleged breach to the relevant personal information custodian and is not satisfied with the response.

Health Complaints Commissioner

The Ombudsman is also the Health Complaints Commissioner under the *Health Complaints Act 1995* and receives complaints relating to the provision of any health service by a health service provider in both the public and the private sector. The Commissioner's functions are outlined in s 6 of the Act and include:

- preparing and regularly reviewing a Charter of Health Rights;
- providing information, education and advice in relation to the Charter, health rights and responsibilities, and the procedures for resolving complaints;
- receiving, assessing and resolving complaints from health service users;
- identifying and reviewing issues arising out of complaints and suggesting ways of improving health services and preserving and increasing health rights; and
- inquiring into and reporting on any matter relating to health services at the Commissioner's discretion or on the direction of the Health Minister.

Energy Ombudsman

A person who has a grievance concerning any service relating to the sale and supply of gas or electricity by an energy entity may lodge a complaint with the Ombudsman for investigation and

resolution under the *Energy Ombudsman Act 1998*. The office has the power under the Act to make determinations and awards against the entities where appropriate.

Custodial Inspector

The Custodial Inspector provides external scrutiny of custodial centres in Tasmania through onsite inspections and the subsequent publication of reports detailing findings and recommendations. The focus of the Inspectorate is on systemic issues relating to the management, control and security of the State's prisons and youth detention centre and the care and welfare of prisoners and detainees.

Water and Sewerage

Pursuant to the *Water and Sewerage Industry Act 2009*, a customer of a water and sewerage corporation, who has made a complaint to the corporation under its customer complaints process and is not satisfied with the outcome of the complaint, may make a complaint about that outcome to the Ombudsman. It is a condition of a corporation's licence that it will be bound by recommendations from the Ombudsman in relation to the complaint.

Police Compliance Audits

My office has the responsibility for ensuring compliance by Tasmania Police with the procedural requirements of the *Telecommunications (Interception) Tasmania Act 1999*, the *Police Powers (Controlled Operations) Act 2006* and the *Police Powers (Surveillance Devices) Act 2006*. I also have a reporting function under the *Misuse of Drugs Act 2001*.

Other Statutory Functions

I am also able to review certain decisions of the Commissioner of Police under the *Witness Protection Act 2000* and decisions about the release of information under the *Adoption Act 1988*; and required by s20F(1) of the *Police Offences Act 1935* to review the operation of Division 111 of that Act which contains provisions concerning consorting within four years of its commencement.

Referral Service

The office plays an important role in referring members of the public to the body best able to address their concerns when those concerns relate to matters that are out of our jurisdiction. In most cases, we are able to advise a complainant of the best place to have their complaint dealt with. We regularly refer people to the Integrity Commission, the Commonwealth Ombudsman, the Telecommunications Industry Ombudsman, the Australian Financial Complaints Authority, Equal Opportunity Tasmania and the Office of Consumer, Building and Occupational Services.

OPCAT

OPCAT was ratified by the Australian Government on 17 December 2017, and requires member states such as Australia to:

- facilitate visits by the UN Subcommittee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Subcommittee) to places within Australia's jurisdiction where persons are or may be deprived of their liberty; and
- establish National Preventative Mechanisms (NPMs) to undertake the monitoring of all places where people are deprived of their liberty in order to prevent torture and other ill treatment.

The Commonwealth Ombudsman has been appointed the national coordinating NPM, but each state and territory is also required to appoint a NPM. The *OPCAT Implementation Act 2021* was passed by the Tasmanian Parliament and received Royal Assent on 29 November 2021. The Act establishes a NPM for Tasmania as a new, permanent monitoring body to undertake regular, unannounced inspections of places of detention, to strengthen protection against torture and ill treatment. I have been appointed Tasmania's inaugural NPM, which is separate from my other appointments, but the term is linked to the terms of those other appointments.

OPCAT defines *deprivation of liberty* and *place of detention* broadly, which is reflected in the Act. Notably, this is wider than the correctional facilities and youth detention centre currently inspected by the Custodial Inspectorate. For instance, the Act provides that places of detention to be monitored include:

- correctional centres, prisons and detention centres;
- hospitals and like institutions;
- closed psychiatric facilities;
- police station and court cell complexes; and
- vehicles used or operated to convey detainees.

It is important to note that the NPM is an independent entity, which compliments rather than replaces existing oversight bodies such as the Ombudsman, Health Complaints Commissioner and the Custodial Inspector. It is one of OPCAT's strict requirements that a NPM must be operationally and financially independent.

The UN's Guidelines in relation to NPMs² make it clear that the process under the Protocol is one of preventative monitoring which is not the same as the work the Inspectorate currently does, and with which its officers are familiar. It is a further requirement in any event, that if the NPM inspection team is attached to an existing entity, it must be completely independent and separate from the other officers of that entity.

The UN Guidelines contain clear requirements for the constitution of a NPM inspection team, particularly in relation to expertise and diversity. Specifically, the guidelines refer to article 18(2) of the Optional Protocol and require that:

The members of NPMs shall collectively have the expertise and experience necessary for the effective functioning of such mechanisms. Their teams should embody a diversity of professional backgrounds and experience, as well as take into account gender balance and representation of ethnic, minority and indigenous groups. Relevant expertise includes legal, medical, psychological, child-related and gender expertise, and any other related expertise so as to allow NPMs to carry out their activities in accordance with the Optional Protocol, in an informed and inter-disciplinary fashion.

While the legislation establishing the NPM has passed, there have been no monitoring standards nor a definite model for the implementation of OPCAT established. Little work had been done between the Australian Government and the states and territories on the implementation of OPCAT, particularly in relation to assisting jurisdictions with the operationalisation of these new entities once their respective NPMs have been appointed. This renders the making of an NPM office Budget Submission impossible at the present time, but it can be said with certainty that the NPM will require significant resourcing and funding before it can operate in accordance with the UN's requirements and expectations.

Although I am familiar with visiting places of detention, having served as Custodial Inspector since January 2017, the preventive lens of OPCAT and the NPM mandate differs in many respects from the existing inspection framework. For that reason, I sought, and have been given, additional funding to establish the OPCAT Implementation Project to undertake a detailed scoping process in order that I might provide to Government an accurate estimate of the resourcing and other requirements needed to make Tasmania compliant with its OPCAT obligations. To this end, I have recruited a full-time Project Manager, who works with the Principal Inspection Officer, Custodial Inspectorate, and will obtain expert advice from independent consultants to inform various aspects of the implementation.

I am encouraged that the Tasmanian Government has expressed a commitment to appropriately resource this new entity.

² *Preventing Torture, the Role of National Preventative Mechanisms A Practical Guide* United Nations Human Rights, Office of the High Commissioner New York and Geneva 2018

I include this information in this report to raise awareness of OPCAT and its purpose and functions not because I am required to do so. In future, annual reports of the NPM will be delivered to the Coordinating NPM as directed by the Act.

ANZOA

I have maintained my membership of the Australian and New Zealand Ombudsman Association (ANZOA). Established in 2003, ANZOA is a professional association and the peak body for Ombudsmen in Australia and New Zealand. ANZOA's members are individual Ombudsmen working in not-for-profit, industry based, parliamentary and other statutory offices, which meet accepted high standards of independence, impartiality and effectiveness, and which observe the Benchmarks for Industry-Based Customer Dispute Resolution (CDR Benchmarks). Through my membership of ANZOA, staff benefit from the professional development opportunities offered by participation in ANZOA's interest groups with staff from other jurisdictions who perform similar roles. See: www.anzoa.com.au.

Ombudsman Act 1978

Review of Complaints

Inquiries

We received 1040 inquiries this reporting year, very slightly down on the 1058 received in 2020-21. We define inquiries as being where a person is seeking information on their best course of action and we provide referral information for out of jurisdiction queries or where, for example, the inquiry is in jurisdiction but the person has not complained to the public authority first. 520 inquiries were within jurisdiction and 520 were out of jurisdiction.

Complaints

We opened 907 complaints this year, which was a 27% increase on the previous reporting year (715). We identify complaints as being matters where it is clear that the person intends to complain, rather than just asking questions and where we take some sort of action, even if it is only providing information to the complainant about their options.

Table 1 - Complaints received analysis

Month	2020-21	2021-22
July	71	101
August	70	78
September	56	73
October	60	61
November	64	80
December	42	61
January	52	84
February	51	70
March	72	94
April	48	62
May	63	69
June	66	74
Total	715	907

The table below shows a breakdown of complaints received under the *Ombudsman Act 1978*, *Public Interest Disclosure Act 2002* (PID) and *Personal Information Protection Act 2004* (PIP), together with a comparison between 2020-21 and 2021-22.

Table 2 - Breakdown of number of complaints including percentages

Agency	2020-21	2020-21 (%)	2021-22	2021-22 (%)
State government departments	378	53%	508	56%
Local government	77	13%	88	10%
Public authorities and GBEs	69	10%	93	10%
Out of jurisdiction	170	20%	188	21%
Personal Information Protection	17	3%	11	1%
Public Interest Disclosure	4	1%	19	2%
Total	715	100%	907	100%

There were 887 complaints closed in the reporting year (up 27% on last year) not including Personal Information Protection (PIP) files and Public Interest Disclosure (PID) files which are discussed below. 384 (44.5%) were declined, referred or out of jurisdiction, 47 (5.5%) were discontinued, 336 (39%) were found to have no defective administrative action and 98 (11%) were partly or fully substantiated. These trends are largely consistent with recent reporting years.

General Agency

These complaints relate to government departments. Historically, the Department of Justice is the most complained about department because it includes the Tasmania Prison Service, and prisoners are the largest single cohort of complainants. They have direct access to the office by way of the prison telephone system. Complaints about various departments are itemised in Table 8.

Department of Justice

Complaints received about the Department of Justice were up from 160 in the previous reporting year to 257, and made up 51% of all complaints received about government departments. This is up from 42% of general agency complaints last reporting year. The breakdown of complaints about the various units of the Department is set out in Table 6. As usual, most complaints received about the Department of Justice (86%) concerned the Tasmania Prison Service (TPS).

Of the 261 complaints about the Department of Justice that were closed in the reporting year, 50 (19%) were declined, referred or out of jurisdiction, 14 (5%) were discontinued, in 166 (64%) it was found that there had been no defective administrative action and 31 (12%) were partly or fully substantiated. Complaints are only discontinued when a complainant withdraws their

complaint or fails to maintain contact with the office, is uncontactable or otherwise shows no interest in pursuing the matter.

Complaints received from prisoners were up from 122 to 221 following a slight decrease in the previous two years. Of the 222 complaints about Prison Services that were closed in the reporting year, 52 were declined, referred or discontinued, leaving 170 matters that were dealt with and finalised. Of those, 26 were partly or fully substantiated, accounting for 15% of all complaints about TPS. This is consistent with previous years. Issues that prisoners complained about are outlined in Table 27.

Department of Health

There were 16 complaints against the Department of Health this reporting year, twice as many as last year. The low number of complaints is perhaps surprising given the COVID-19 pandemic and consequent public health measures but other departments had a role in quarantine matters and so this may provide some explanation.

Department of Communities

This agency is responsible for social housing and child protection, amongst other things, which are traditionally sources of comparatively high numbers of complaints. The Department is due to be disbanded and absorbed into various other departments during the next reporting year. We received 81 complaints this reporting year, most of those (58 complaints or 72%) were about Housing Tasmania and the community housing providers that have acted as agents of Housing Tasmania. The Ombudsman continues to have jurisdiction to review the administrative actions of these community housing providers under their new contracts.

We are still noticing significant numbers of inquiries and complaints either from people who are homeless or in unstable housing, such as emergency housing or shelters, and unable to obtain social housing despite being on the priority waiting list. This reflects the affordable housing crisis in Tasmania which has only worsened since the last reporting year. Unfortunately, there is very little that my office can do in circumstances where there is a serious shortage of housing stock.

The second highest number of complaints about Communities relate to Children and Youth Services (12), which are most often complaints about child protection matters. See Table 9.

Local Government

This reporting year we received 88 complaints about local government councils, up a little on last year's 77. We received complaints about all councils (see Table 20) with the highest numbers unsurprisingly being about the larger councils. In the 79 complaints closed in the reporting year, the most common causes for complaint were building, general administration, nuisance and rates and charges (Table 28).

Public Authorities, Government Business Enterprises and Other Authorities

This category includes a variety of bodies over which I have jurisdiction but which are not departments or councils. We received 93 of these complaints and closed 92. The highest number of complaints received in this category were about TasWater (30) and The University of

Tasmania (UTAS) (33). Complaints about UTAS were mainly about international fee refunds. We received 15 complaints about the Public Trustee, which was slightly up on the previous reporting year in which we received 10. The figures are in Table 21.

Case Summaries

Tasmanian Prison Service – August 2021

Sentence Calculations

The complainant, an inmate at Risdon Prison, wrote to Ombudsman Tasmania to make a complaint about errors that he alleged existed in his sentence which he asserted had led to him being required to serve more time in custody than necessary.

The Ombudsman is able to review the administrative action of the Tasmanian Prison Service (TPS), in relation to its calculations and assessment of potential remission. The complainant alleged that TPS:

- made significant errors in the calculation of his remission in March 2018, saying that he was only eligible for three months maximum remission when this was not the case;
- the complainant did his own calculations and determined that he should actually be eligible for 13 months remission due to his sentences all being separate but cumulative;
- TPS acknowledged it had made an error by treating the sentence as a global one but said that the complainant would only be eligible for 12 months remission due to the non-parole period applicable to the sentence;
- in March 2020, the Sentence Management Unit contacted the complainant after it had commenced the remission assessment process, to advise that due to the unusual structure of the sentence, the complainant was only eligible to a maximum of five months remission, and he was advised to consider getting legal advice;
- the legal advice received by the complainant was that the sentence was unlawful, he successfully appealed to the Supreme Court of Tasmania, and a new sentence was handed down on 27 November 2020 to correct the sentencing errors in the original sentence and;
- due to legislative amendments which came into effect on 1 November 2020, TPS advised the complainant he was now only eligible for three months remission on his total episode of imprisonment.

The complainant complained that if TPS had identified the issue earlier and correctly calculated remission eligibility, he could have sought legal advice and appealed at an earlier time and potentially received more remission. The complainant was also concerned that he should have been advised that he could be worse off by appealing, due to the changes to remission under the *Corrections Act 1997* which became law on 1 November 2020.

As part of its response, TPS correctly identified that it is not responsible for auditing and identifying the legality of sentences imposed by the court, rather it is required to advise prisoners of how the sentence will be calculated. At the time TPS identified that the complainant was not eligible for 12 months remission, it wrote to him in March 2020 and strongly recommended that he obtain independent legal advice. Further correspondence sent to him in April and June 2020 also recommended that he contact his lawyer about his sentence.

TPS is not responsible for advising prisoners of any advantages and disadvantages associated with appealing a sentence.

Regardless of whether the complainant appealed, the remission amendments would have reduced the five months remission eligibility to three months, as the maximum remission which can now be granted on sentences imposed prior to 1 November 2020 is three months. If the decision on the appeal had been made prior to 1 November 2020, the complainant would have been eligible for more than three months remission but this did not occur. TPS correctly determined that the complainant was eligible for three months remission following the appeal.

While it is unfortunate that the sentencing error occurred and was not identified until 2020, the error in the sentence was not of TPS' making and could only be corrected by a court. TPS encouraged the complainant to seek legal advice and provided information on the potential impact on remission eligibility. Reviews of complaints to the Ombudsman about remission matters demonstrate that administrative changes have occurred at TPS and remission calculation processes have been improved. The primary negative impact on the complainant's remission occurred due to changes in the law made by the Tasmanian Parliament, which has removed and restricted remission for prisoners.

TasRail – August 2021

Sounding Of Train Horns Through Residential Areas

A complaint was received about TasRail and the sounding of train horns during the night and early hours of the morning when trains are passing the complainant's property which is located in a small rural town. The complainant had attempted to resolve his complaints with TasRail using the telephone number provided on the TasRail webpage and then through the online complaint process on the webpage. Neither a telephone call made by the complainant on 7 May 2021 nor an email sent on 9 June 2021 had been responded to.

This office undertook preliminary inquiries pursuant to s20A of the *Ombudsman Act 1978* (the Act) and a response was requested from TasRail addressing the concerns the complainant had raised, about the train horn but also the failure to respond to the telephone and email complaints.

Timetables

TasRail advised that the town in question is located on the South Line of the Tasmanian Rail Network, this in turn is recognised as part of the National Land Transport Network. Freight trains pass through the town approximately six times in a 24 hour period (three heading north and three heading south) from Sunday to Friday nights between the hours of 7.15pm and 5.00am. TasRail has been operating since 2009 and even prior to its creation, TasRail maintains that the train timetable operating through this town operated a similar schedule for decades.

The timetable has been established to best synchronise with shipping arrival and departure times, which is why the trains are travelling through the night and early hours of the morning.

Horn

The horn on a train is used to mitigate the risk of collision between a road user and a train. TasRail's minimum operating procedures require drivers to sound the horn twice at each level crossing for a duration of one second each time, one near the approach to the crossing and once prior to entering the level crossing. The horn should be sounded on the 'low note' between the hours of 10:00pm and 6:00am. A train driver also has the authority to sound the horn at any time that he or she perceives there to be a potential danger.

TasRail maintains that the risks associated with collisions at crossings are very real and that the use of the horns is of vital importance to warn road users of the approaching train.

TasRail accepts that the sound of the horn blowing during the night may disturb those living close to the railway, however it maintains that the safety of the public and rail operations are its priority. TasRail is required to identify potential risks and implement strategies to address them. Part of the strategy developed by TasRail includes the procedure developed for drivers to sound the horn on the approach to and when entering a level crossing.

If members of the public believe that the use of the horn by TasRail drivers does not comply with the procedure outlined above, they can provide details about the estimated time and location that the horn was sounded, TasRail then has the ability to investigate the matter. This includes obtaining data from the train confirming how many times the driver sounded the horn, the duration of horn sound and whether the high note or low note was used.

TasRail's Community Service Standards

TasRail acknowledged that it received the first phone call from the complainant on Friday 7 May 2021 and although it reports that an attempt was made to return the call during the week commencing 10 May 2021, it also recognised that it did not reach the complainant and the message was then overlooked.

TasRail also indicated that the email dated 9 June 2021 was received and flagged for follow up the week of 28 June 2021, however this was set aside when it received correspondence from this office. TasRail has acknowledged that it omitted to send a receipt of email in the first instance.

As a result of this complaint and the oversights that were highlighted, TasRail is now in the process of revisiting its community complaints phone message and online procedures and system. TasRail has committed to reviewing its community complaints procedure within two months to ensure it is fit for purpose.

Outcome

I was satisfied that the explanation TasRail provided in relation to the times trains traverse past the complainant's property and the requirement to sound the horn when entering level crossing is reasonable in the circumstances. TasRail has acknowledged that the response to the complaints raised was not in accordance with best administrative practice and has undertaken to review its current community complaint process.

Tasmanian Prison Service – August 2021

Delays to Receipt of Confidential Mail by Inmates

The Ombudsman received a complaint from an inmate about the length of time it had taken confidential correspondence from this office to be received.

As part of a quality control process the Ombudsman maintains a register that includes details showing the date confidential correspondence from this office is sent to inmates, as well as recording the date the inmate signed an acknowledgement confirming that the confidential mail has been received unopened.

A review of the Ombudsman mail register identified that there had been a number of instances since January 2021 where correspondence had not been received for over seven days from the date it was sent. Conversely, there were also instances where inmates received mail from this office within three days. Due to concerns about these delays a response was sought from the Director of Prisons questioning why some mail was taking a significant period to reach the recipient.

The response received suggested that some delays may be attributable to weekends and public holidays. In addition, the current system implemented at the Tasmanian Prison Service (TPS) required confidential mail to be redirected to the Performance and Compliance Unit where it is tracked, before being put into the TPS internal mail to be received by the recipient's Unit Superintendent. TPS views this process as unavoidable and necessary to manage confidential correspondence.

TPS also maintains a register of privileged mail receipted into the prison. The Ombudsman observed that there appeared to be an issue with TPS consistently recording data and the register lacking information that may assist with identifying whether the delays to mail are more likely to occur in particular units of the prison. As a result of these observations TPS confirmed that it has updated its register to include the facility and unit the recipient of the mail is housed in. It has also been agreed that staff will aim to include details that may explain occasional delays, such as where an inmate has been transferred for court purposes to the North of the state.

I will continue to monitor the register maintained by this office to ensure that in the event delays again start to occur, data can be requested from TPS and work can commence to determine whether the delays can be explained by reference to the details now included in the register.

University of Tasmania – September 2021

Delays in processing refund applications and issues with refund application refusals for international students

The Ombudsman received a number of complaints from international students at the beginning of the 2021/22 reporting year concerning delays or refusals to refund tuition fees paid to the University of Tasmania (UTAS).

Preliminary inquiries undertaken resulted in details about the refund process being provided by UTAS, including the appeal process available to students aggrieved by a decision not to refund all or part of a tuition fee.

UTAS confirmed that in January 2021, it implemented a change in the assessment process of international student applications, which remained in place until approximately May 2021. UTAS had hoped that this change in process would streamline international student applications. Unfortunately, it had been identified that the new process removed a second compliance check that was previously undertaken before students paid fee deposits. This compliance check was used to ensure that applicant students met the appropriate Visa requirements and held the necessary qualifications to be accepted as a student at UTAS before a position was offered to them.

UTAS confirmed that it is now working through all refund requests and appeals relating to the specified period when the new process was operational to ensure that no student is adversely impacted by what has now been identified as a flawed process. This has resulted in a number of students receiving full refunds. UTAS acknowledged the time that it is taking to complete this review and that it has resulted in delays in finalising refund applications and appeals.

UTAS also confirmed that the assessment process has reverted to that which was in place before January 2021, allowing for an additional compliance check to be undertaken prior to a deposit being paid by students.

A suggestion was made by the Ombudsman that UTAS consider writing to all students impacted by this change in process and that information be provided explaining why the delay in processing applications has occurred.

Department of State Growth – November 2021

Poor recruitment and selection processes

This office became aware of issues with the Department of State Growth's recruitment and selection processes through a complaint raised by a person who unsuccessfully applied for a position with the Department. As the complainant was not a state service employee, they did not have the option to apply for a review in accordance with section 50(1)(a) of the *State Service Act 2000*, and as a result this office agreed to make preliminary inquiries. The issues identified

were not such that they would have had an impact on the outcome of the complainant's application, so an investigation of the complaint was not considered to be justified.

A review of documentation provided in response to this office's inquiries demonstrated that all of the members of the selection panel professionally knew the successful applicant. While these conflicts of interest were declared, the selection report did not clearly outline the exact nature of the panel members' relationships with the successful applicant, nor how the conflicts of interest were managed.

The selection report further demonstrated that the successful applicant was appointed to a permanent position without any referee checks being conducted. The selection report indicated that referee checks were not considered necessary because the successful applicant was known to the selection panel, raising further questions about how the panel members' conflicts of interest were managed.

State Growth advised that referee checks are not mandatory in accordance with its selection procedures, however the documentation it provided in relation to its recruitment and selection process strongly suggested that referee checks should always be conducted for the preferred applicant.

This office provided feedback to State Growth that the administrative deficiencies in this matter meant this office, as an independent third party, was unable to satisfy itself that appropriate processes had been followed. This office also indicated that, had a complaint been received from an applicant who was in close contention for the role, the whole process could be called into question.

The information provided in response to this office's inquiries suggested that State Growth does not have a recruitment and selection policy, and State Growth advised that it is currently reviewing its approach to recruitment and selection processes. This office advised that State Growth should have a clear policy regarding each stage of the recruitment and selection process, and provided suggestions there as to how to address the significant issues identified through this complaint to avoid such a scenario occurring again.

State Growth has agreed to take suggestions into account in its review, and we requested to be notified of the outcome.

Burnie City Council – November 2021

Refusal to engage with a complainant regarding noise concerns

A complainant contacted this office to raise concerns about the way Burnie City Council had responded to a noise complaint they made. The complainant had made a complaint about a loud event that they said could be heard clearly in their house over the course of one evening and most of the next day.

The General Manager of Council provided an initial response to the complainant. The complainant expressed dissatisfaction with the response and outlined various aspects of the complaint that they felt had not been addressed.

The General Manager responded to the complainant advising that he could not add to the response he had already provided. The complainant again expressed dissatisfaction with the response, and asked a number of specific questions about how the matter had been handled, particularly in relation to how Council monitors compliance with permits it has issued. The complainant did not receive a response.

The complainant then raised a question about the matter at a council meeting, and received a response from the Mayor which was essentially a word for word copy of the initial response they had received from the General Manager.

This office advised the Council that it appeared unreasonable for it to refuse to engage with the questions the complainant had asked, and asked if Council would be willing to directly address those questions.

Council responded that it did not consider a further response was necessary on the basis that:

- a detailed response had been provided to the initial complaint;
- the council considered that it was apparent the complainant would continue to be dissatisfied with any further responses;
- some of the questions the complainant asked had been repeated more than once; and
- the complainant had been provided with more than one written response, had their issue raised at a council meeting, and had engaged in various discussions with technical and senior officers of Council.

This office reiterated its view that Council should directly address the complainant's questions, as none of the responses had done so. It was also suggested that Council's view that the complainant would continue to be dissatisfied was not a valid reason for refusing to further engage with the complainant's concerns. With regard to the reference to the complainant having had various discussions with technical and senior officers, further information was sought, as the complainant had not mentioned any such discussions.

Council's General Manager then reiterated that, while this office's views had been noted, Council did not consider a further response necessary and considered the matter closed. No further details of the previously mentioned discussions between the complainant and technical and senior officers were provided.

This office maintains the position that Council should properly respond to the complainant's questions, but ultimately we are not able to compel it to do so. It is unusual for a government authority to refuse outright to accept this office's suggestions regarding administrative best practice, and it remains unclear why Council is unwilling to respond to the complainant's perfectly reasonable questions. As Council's refusal to engage indicates that an investigation of this matter is unlikely to achieve anything further, it was decided to publish a case summary to

highlight the council's lack of co-operation and the poor standard of service it has provided to the complainant in this matter.

RBF, Office of the Superannuation Commission – February 2022

Management Of An Application For A Surviving Partner Pension

Mr D was the holder of a Contributory Scheme Life Pension with the Retirement Benefits Fund (RBF). At the time of Mr D's death he and his wife were not living together; Mrs D resided in an aged care home. Mrs D was entitled, once determined to be Mr D's surviving partner pursuant to the provisions of the *Public Sector Superannuation Reform Regulations 2017* (the Regulations), to a lifetime pension at the rate of two thirds of the rate of Mr D's pension at the time of his death. The Regulations provide a surviving partner with a right to commute the surviving partner's pension into a lump sum within three months of the surviving partner determination being made by the Superannuation Commission. Mrs D died before a determination had been made.

A complaint was received by the Ombudsman about the time taken by RBF to reach the determination that Mrs D was the late Mr D's surviving partner. A further concern was raised that, as a result of Mrs D's death before the determination was complete, the right to commute the surviving partner pension into a lump sum was lost.

In response to the Ombudsman's enquiries RBF acknowledged a number of delays where RBF did not meet its customer service standards in responding to requests for information or contact by Mrs D's family.

RBF acknowledged that the documents required to be lodged to satisfy it that Mrs D was Mr D's surviving partner were lengthy and overly complicated. As part of the response provided to this office RBF indicated that amendments have been prepared to the Regulations that seek to streamline the process for surviving partners to claim an entitlement to a deceased partner's pension.

Additional information provided by RBF indicated that the matter was further delayed by the death of Mrs D and the added complication of then having to deal with the executor of her estate.

Another delay was then experienced when requested documentation was provided to RBF by mail and documentation was not forwarded by the Department of Treasury and Finance to RBF. This oversight was identified by RBF as being the result of human error and reassurance has been provided to this office that RBF is not aware of any other delays that resulted from an oversight of this nature. In addition, RBF is confident that the current arrangements it has in place are adequate to prevent a similar oversight occurring in the future.

It is difficult to determine whether the time taken by RBF to process the application was excessive, but it is clear that there were delays in communication from RBF that made the process more difficult for the applicant. Further investigation was considered unnecessary due to the acknowledgements made by RBF about the delays and the proposed amendments to the Regulations. The Ombudsman remains hopeful that the proposed changes to the Regulations will provide a less complicated application process for surviving partners.

Department of Education – April 2022

Complaints Policy Omission

A complaint was received about the Department of Education's refusal to accept a complaint about the placement of a child in a class at a primary school. The reason provided to the complainant was that this type of complaint was outside the scope of the complaints managed by the Department. The complainant also raised concerns about the process associated with allocating the complainant's child a class placement at the school.

Enquiries and Complaints Management Policy

The Department's *Enquiries and Complaints Management Policy* contains details about how complaints and enquiries directed to the Department will be managed. Attachment 1 of the Complaints Policy specifically sets out a number of issues that are 'Inside the operation of the Department, but not within scope of this particular policy'.

The initial enquiries undertaken by this office determined that issues relating to the specific class group that a child was placed in by a school were **not** included in the list of issues outside the scope of the Complaints Policy. Preliminary inquiries were then commenced seeking information from the Department addressing how and why it was relying on an issue being out of scope when it was not included in the list.

The response received from the Secretary of the Department acknowledged that as a result of a drafting error, the exclusion referred to above was omitted from the Complaints Policy when it was submitted for approval of the Department Executive. The Secretary also advised, that following a period of consultation and review, the placement of students in specific classes had been identified as an operational concern best managed by the individual school principals.

The Department determined the error to be a drafting error and should be confirmed as an excluded complaint issue under Attachment 1 of the Complaint Policy. The drafting error was to be amended as part of a planned 12 month review of the new Complaints Policy. On an interim basis, the Department had continued to operate with the complaint category excluded as originally intended.

As a result of this complaint, and the Secretary becoming aware of the anomaly, arrangements have been made to amend the Complaints Policy for approval by the Department Executive as a matter of urgency.

Class Placement

The Department also provided an explanation about why class placement was determined to be an excluded complaint issue. This was because decisions of this nature had been identified as

complex operational matters best determined by the school principal who has particular knowledge and understanding of the specific school and school community. The principal is required to take into account factors such as the location of the school, resourcing, class sizes, teaching staff capacities and backgrounds, parent relationships and student dynamics.

The Department recognised that if complaints about class placement were reviewable by the Department it would make finalising class placements challenging and more time consuming. The Department stands by its position that this is an operational issue that is best managed by the individual principal. There is an avenue of review available to parents who wish to raise concerns about class placement through the individual school.

Based on the response provided, I was satisfied that the complainant's submissions had been taken into account by the Principal when the determination was made about class allocation. As class allocations are an operational matter, the final determination reached about which class a child is allocated to is most appropriately managed by the Principal. The administrative actions relating to the process surrounding the class allocations, the opportunities provided to parents to allocate a preference and provide reasons as to why the nominated days are preferred, are reasonable and I was not able to identify any improvements that could be undertaken or administrative oversights associated with the process.

Outcome

After taking into account the response provided by the Department I determined further investigation of the complaint was unwarranted. The drafting error in the Complaint Policy was identified and action has been commenced to rectify the oversight. In addition, administrative action taken by the Principal when determining class allocations was reasonable.

Department of Communities, Housing Tasmania – May 2022

Vacation Maintenance Costs

A complaint was received from a tenant of Housing Tasmania relating to a determination made by the Housing Review Committee concerning vacation maintenance costs associated with the removal and replacement of carpet that were deemed to be the tenant's responsibility.

The complaint was complicated due to the tenancy in question and the vacation maintenance costs dating back to 2011. The complainant had referred the matter back to the Housing Review Committee in 2020, specifically requesting that the vacation maintenance costs associated with the property from 2011 be reviewed. The review undertaken by the Committee determined that the costs should stand and that the complainant remained responsible for the outstanding debt.

The complainant referred the complaint to this office, which undertook preliminary inquiries, focusing in particular on the evidence that was available to the Housing Review Committee in 2020 when it made the determination that the costs should stand.

As a result of these inquiries, it became evident that the complainant had been forced to vacate the property due to reasons outside of the complainant's control and the property had been

subject to vandalism and damage after the complainant had vacated. Prior to vacating the property, inspection reports completed by Housing Tasmania did not identify any significant damage, rather the reports noted the *property [is] well looked after*. The inspection that was undertaken occurred after the incident where the tenant was forced to vacate the property and where damage was alleged to have taken place. The inspection also occurred after the property had been subject to break-ins and vandalism.

This office raised its concerns with Housing Tasmania about the lack of evidence available to support the determination made by the Housing Review Committee. Housing Tasmania conceded that the decision made by the Committee had not been evidence-based. Housing Tasmania made arrangements to credit the costs associated with the removal and replacement of carpet at the property to the tenant.

Information also provided by Housing Tasmania indicated that it is in the process of undertaking a review of the Housing Review Committee. It is hoped that this review will ensure that future decisions are evidence-based.

University of Tasmania – May 2022

The Use Of Reasonable Directions

Ombudsman Tasmania received a complaint from a student raising concerns about *reasonable directions* issued to him under article 12.1 of the *Student Behaviour and Conduct Ordinance* by the Safe and Fair Community Unit (SaFCU), the impact of the directions and his inability to appeal or apply for a review of the directions.

Background

SaFCU received a number of complaints from students raising concerns about the complainant, specifically referring to criminal offences with which the complainant had been charged but which were still before the court. SaFCU undertook a Risk Assessment process that it relied upon to then issue directions to the complainant in accordance with the *Student Behaviour and Conduct Ordinance*.

A meeting was scheduled between the complainant and a SaFCU officer to discuss the concerns raised by students and the steps the University was looking to take. On the same day as the meeting took place the complainant was issued with the directions, as had been determined appropriate in the Risk Assessment.

The complainant responded by email the following day to the concerns raised and the proposed directions. The complainant's response raised issues about the course of action proposed by the University. The University responded formally with a letter that provided notification of the directions. These directions required that the complainant:

- withdraw from a unit of study (with no financial or academic penalty);
- be required to continue with the remaining units online only and not attend any University campus unless prior approval was sought;

- as a consequence of not attending campus, the complainant also be required to withdraw from a project; and
- until the conclusion of the court proceedings, be required to continue studying online.

There followed a period of time where the complainant continued to attempt to dispute whether the directions were reasonable or necessary. In response, SaFCU offered opportunities for the complainant to again meet with the same SaFCU officer. It was not until approximately a fortnight later that the complainant received information that the SaFCU officer who had been made available to meet him was unable to alter the directions made and that the complainant would be better raising his concerns directly with a different SaFCU officer.

In addition, it does not appear that the complainant fully understood the effect of directions issued under article 12.1 of the *Student Behaviour and Conduct Ordinance* – in that it was not a final or permanent direction, therefore there was no right of internal appeal or avenue of review available.

Issues

The University owes a duty of care to students and staff to create a safe environment for all. Unfortunately, the response implemented by the University to try to meet the safety standards it perceived as being necessary did not allow the complainant an appropriate internal avenue to request that the directions imposed be reviewed or appealed.

The Risk Assessment undertaken had been completed prior to any communication or contact with the complainant in relation to the risks identified. The first time the complainant was advised of the concerns that had been raised by fellow students was by way of email sent from a SaFCU officer and, by that time, the University had already decided the directions that would be made.

The complainant raised concerns about the directions by way of email the day after the first meeting with the SaFCU officer. These concerns were not specifically addressed in the formal communication addressed to the complainant that set out the directions issued. The formal communication also failed to advise that there was no internal appeal or avenue of review available to the complainant. In addition, the SaFCU officer the complainant was directed to communicate with did not have the authority to amend the directions imposed and this was not explained to the complainant.

It is unreasonable and contrary to the principals of procedural fairness to impose extremely restrictive directions on a student without offering an opportunity for the student to be able to respond to, or appeal the determination and directions issued.

Outcome

In this situation, where the student does not agree to the directions imposed, there should be an internal avenue of appeal. This should be to a third party, independent of those who undertook the risk assessment and who had determined what directions should be made.

Information provided by the University as a result of these preliminary inquiries confirmed that issuing directions pursuant to article *12.1 of the Student Behaviour and Conduct Ordinance* is not the usual method used to enforce sanctions or other decisions on students. It would more often be the case that the University would rely on the Behaviour Procedure, which allows for appeals and procedural fairness.

Following completion of this office's preliminary inquiries a suggestion was made to the University that if a situation such as this were to occur in the future, it may be more appropriately managed using an alternative process rather than issuing directions under article *12.1 of the Student Behaviour and Conduct Ordinance*. In the event that the University did determine directions under that article to be the most appropriate means of managing a matter, it should provide an internal avenue of review. The University has conceded this and responded that in situations where a student is severely impacted by the directions issued and where the student does not agree with reasonable directions made, they should be able to request a review to a Provost. This, together with providing a student with more accurate information about the process would potentially allow for a more fair and equitable outcome.

Right to Information Act 2009

The Ombudsman is the external review entity under the *Right to Information Act 2009* (the RTI Act). Amongst other things, my office reviews decisions of public authorities or Ministers where an applicant has been refused access to information, in whole or in part, or has not received a decision within the time stipulated by the Act. Other functions that fall to me pursuant to the Act include:

- providing advice, either on my own initiative or upon request, to public authorities and Ministers concerning the operation of the Act;
- issuing and maintaining guidelines for the information and assistance of those using the Act, both applicants for information and the public authorities and Ministers in whose possession it is; and
- issuing and maintaining a manual related to the operation of the Act.

Section 53 of the RTI Act requires me to report on the operation of the Act in my annual report under the Ombudsman Act. This chapter is that report.

Statistics and Performance

External Reviews Opened and Closed

The number of applications for external review made in the 2021-22 reporting year decreased to 47, from 70 in 2020-21 and 65 in 2019-20. The number of reviews closed during this period decreased to 46 from 53 in 2020-21. Of the reviews closed, 19 were external reviews which proceeded to formal decisions, an increase from the 16 decisions completed in 2020-21.

Table 3 - Summary of Right to Information External Review Figures

Authority	Applications Received 2020-21	Applications Received 2021-22	Closed 2021-22	Reviews Undertaken
State Government Department	51	30	33	11
Local Government Council	16	10	10	5
Statutory Authority or Other Body	3	7	3	3
Total	70	47	46	19

A detailed breakdown of external review applications opened and closed by public authority is at Tables 31 to 33.

While the numbers were lower than the 2020-21 financial year, the trend that the highest number of review requests relate to the Departments of Health and Communities continued in 2021-22. Seven external review requests were received in 2021-22 regarding the Department of Health and five review requests were received regarding the Department of Communities. This corresponds to 26% of all external review requests for 2021-22 relating to these two departments. While I acknowledge that both departments have advised of a significant increase in the volume of assessed disclosure applications, there are improvements that could be

achieved by both departments in relation to issuing of decisions within the statutory timeframe, improving communication with applicants regarding delays and ensuring decisions are of high quality. Such improvements might reduce the volume of external review requests relating to these departments.

Applications for external review of local government decisions decreased from 15 in 2020-21 to ten in the 2021-22 reporting year, though applications increased to seven in 2021-22 in relation to other public authorities (such as statutory authorities, government businesses, Ministers) from three in 2020-21. There continue to be no specific discernible trend in relation to external review requests made regarding decisions of these types of public authorities, likely due to the low numbers involved.

While the subject matter of requests for external review varies considerably, repeated themes in requests in 2021-2022 included:

- environmental issues and capital works projects;
- governance and financial management concerns in relation to local government councils; and
- the Tasmanian government's response to the COVID-19 pandemic.

Decisions made on External Review³

Of the 19 external review decisions completed in the 2021-22 reporting year, eleven involved departments; five involved councils; two involved government business enterprises and one concerned the University of Tasmania.

The above compares to the 16 external review decisions completed in 2020-21. Of those decisions, nine involved departments; four involved councils; one involved a government business enterprise; one involved a statutory corporation and one related to a Minister.

At 32%, by far the most reviews undertaken by this office in the 2021-22 reporting year involved decisions made by the Department of Natural Resources and Environment Tasmania (previously the Department of Primary Industries, Parks, Water and Environment), carried over from previous years.

³ See Tables 31 to 33 for more detail

Table 4 – Right to Information External Review Outcomes

Decision	2020-21	2021-22	Variance
Public Authority Decision Affirmed	8	3	-62.5%
Public Authority Decision Varied	4	12	200%
Public Authority Decision Set Aside	4	4	0%
Closed after Preliminary View ⁴	0	2	-
Other ⁵	37	25	-32%
Total	53	46	-13%

Of the 19 external review decisions completed in the 2021-22 reporting year, only three affirmed the decisions of the relevant public authority. The significant majority varied or set aside the decisions, and two of the decisions in which the public authority's decision was affirmed included significant criticism of the manner in which the assessed disclosure application had been handled.

That 95% of the external reviews dealt with in the 2021-22 financial year identified issues with the manner in which the public authority had responded to a request for assessed disclosure is of concern. The express object of the RTI Act is clear in relation to its pro-disclosure focus, seeking to increase government accountability and acknowledging that the public has a right to the information held by public authorities who are acting on behalf of the people of Tasmania. Too often, sadly, adherence to this object is not evident in practice and a closed, and at times obstructive, approach is taken when responding to requests for assessed disclosure which come before my office. While this is not universal and definite progress has been made in some areas towards the adoption of a more open approach, there is room for major improvement and I urge all public authorities to do better and strive harder to achieve the object of the RTI Act in future.

Resolution of Applications for Review

Our total number of active external reviews awaiting a decision or resolution increased slightly to 100 at the end of June 2022, up from 99 at the end of June 2021.

Due to the continuing high volume of review requests, I have maintained my particular focus on attempting to resolve reviews without the need for a formal decision to be made. This year, 27 external reviews were resolved without proceeding to such a decision. Usually, matters not reviewed or where no decision making process was undertaken are those where information has been released by the public authority or otherwise resolved following case management by this office.

⁴ 2021-22 New outcome reported on

⁵ 'Other' includes matters withdrawn by the applicant, declined due to lack of progression by the applicant or lack of substance, closed after the information or a decision has been released, or a resolution negotiated.

I have commenced a new process of less formal resolution, referred to as the “Preliminary View”. Inspired by similar processes implemented by Information Commissioners in Western Australia and Victoria, I have found this an effective tool in seeking to resolve matters without the need for a formal decision. A Preliminary View sets out the decision which would be likely to be made if a formal review were undertaken and is mostly used when there are concerns about the lack of substance in an external review request or clear issues with a public authority’s decision. It gives the applicant and the public authority the opportunity to make submissions in response to my view and a public authority an opportunity to consider making a fresh decision, and has resulted in the faster resolution of a number of external reviews to date.

Challenges faced

As I have noted in previous years, a significant historical backlog of external review requests exists in my office. The office received additional funding in 2019 to try to clear the backlog of outstanding external review requests and I had anticipated that this would have a positive impact by this stage. Unfortunately, though modest inroads have been achieved, due to a range of issues (most particularly high staff turnover, unexpected leave and major difficulty in recruiting, but also a high number of new external review requests requiring formal decisions), this has not occurred and the backlog remains. We are currently recruiting again and the RTI team continues to focus on the reduction of the backlog. I have found additional funding to enable me to recruit a Senior Investigation & Review Officer for 12 months to focus solely on clearing the backlog and hope to recruit for this position early in the new reporting year.

I have updated my priority policy and have approved a greater number of external review applications for expedited processing, in order to reduce the negative impact of the backlog. Priority is granted when there is compelling need for a newer application to be finalised, such as due to a high degree of public interest in the relevant information or an impending deadline. Topics of matters prioritised in 2021-22 included requests for information regarding:

- Tasmanian Government responses to child sexual abuse in institutional settings;
- the move of the University of Tasmania campus to the Hobart Central Business District; and
- governance issues at the Huon Valley Council regarding the recruitment of its current General Manager.

Due to the need to focus on clearing the backlog of external review requests, no formal training could be offered to public authorities in 2021-22. I hope to restart this, albeit in all likelihood in a limited fashion, in the coming year as I recognise the need for such training and the frequency of indications from public authorities indicates that it is highly sought after. My RTI team continues to provide high quality advice and guidance to public authorities on the operation of the RTI Act on an *ad hoc* basis in the interim. A monthly newsletter to all RTI delegates containing practice tips, recent Ombudsman decisions and references to useful resources has also been commenced to support and guide RTI practitioners in the absence of a training program.

Association of Information Access Commissioners

I have maintained my connection with the AIAC, which consists of the Information Commissioners or Ombudsmen across Australia and New Zealand who oversight their respective jurisdiction’s freedom of information or right to information legislation. The Association provides an important forum for the exchange of ideas and the discussion of issues of mutual interest, and has continued to meet regularly despite the impact of COVID-19.

Public Interest Disclosures Act 2002

My responsibilities under the Act include:

- receiving and assessing potential public interest disclosures of improper conduct by public officers and public bodies;
- determining whether a disclosure is a public interest disclosure;
- investigating such disclosures where appropriate;
- reviewing public bodies' decisions under the Act;
- preparing and publishing guidelines and standards for the procedures to be followed by public authorities when implementing the provisions of the Act;
- approving those procedures once developed;
- preparing and publishing guidelines to assist in determining whether improper conduct is serious or significant;
- monitoring the progress of investigations being undertaken pursuant to the Act by public bodies; and
- advising public bodies in relation to the operation of the Act.

The year in review

Section 84 of the Act requires me to include in my annual report specific information in relation to various aspects of its operation. In satisfaction of that requirement, I report as follows, that in the reporting year:

- copies of current guidelines and standards published by the Ombudsman under Part 6 of the Act could be obtained or accessed on the Ombudsman website at www.ombudsman.tas.gov.au or by calling 1800 001 170 and requesting a copy – s84(a);
- the Ombudsman received nine disclosures about improper conduct;
- eight determinations were made that disclosures were not public interest disclosures and there were no determinations made that a disclosure was a public interest disclosure – s84(c);
- no investigations from the previous reporting year into alleged improper conduct continued this reporting year – s84(d);
- no disclosed matter was referred under s41 to the Commissioner of Police, the Auditor-General, a Commission under the Commissions of Inquiry Act 1995 or any other prescribed public bodies or the holder of a prescribed office to investigate – s84(e)(i);

- one disclosed matter was referred to a public body to investigate under Part 7 of the Act – s84(e)(ii);
- the Ombudsman has not declined to investigate any disclosed matters under s40 of the Act – s84(f)(i);
- one disclosed matter was referred to the Ombudsman by a public body for investigation – s84(f)(ii);
- no disclosures were referred to the Ombudsman by the President of the Legislative Council or by the Speaker of the House of Assembly – s84(g);
- the Ombudsman took over no investigations of any disclosed matter – s84(h);
- no recommendations were made during the year – s84(i)
- no recommendations were made during the year – s84(j);
- no recommendations were made in relation to the procedures established by a public body under Part 7 – s84(k); and
- no action was taken during the year on any recommendations of the Ombudsman – s84(l).

It is important to note that the number of disclosures reported is not necessarily a reflection of the number of disclosers. A complaint from one discloser may sometimes contain multiple disclosures if it is about more than one public officer or public body.

The Ombudsman also oversees determinations made and investigations conducted by public bodies. This oversight work is still time consuming although often only involves confirming a determination made was appropriate. We received ten such notifications this year.

Personal Information Protection

Schedule 1 of the *Personal Information Protection Act 2004* (PIP Act) creates the Personal Information Protection Principles (PIPPs) that bind all public authorities. These principles and other provisions of the Act regulate the manner in which an authority can collect, maintain and use personal information and the limited circumstances in which such information can be disclosed.

The PIP Act makes a distinction between basic information and sensitive information and the steps to be taken by public authorities to ensure compliance with the different protection principles. The Act gives people the right to complain to the Ombudsman about an alleged breach of a personal information protection principle.

The Ombudsman can only deal with a complaint regarding an alleged breach of a personal information protection principle that applies to the complainant, not another person. The complainant, however, must first have raised the matter with the relevant personal information custodian, and not been satisfied with the response he or she received.

We received eleven PIP Act complaints in the reporting year and closed six. Of the six closed:

- one was out of jurisdiction as it did not relate to a potential breach of a personal information protection principle;
- one had no name or contact details provided for the complainant and could not be investigated;
- one did not relate to the personal information of the complainant;
- two were closed under s.19 as the subject matter of the complaint related to a matter permitted or required under a law; and
- there were no cases where a contravention was found to be substantiated.

Inspections under Police Legislation

The Ombudsman is the inspection entity in relation to certain records that must be retained by law enforcement agencies.

Police Powers (Surveillance Devices) Act 2006

This Act provides for the installation, use, maintenance and retrieval of surveillance devices in criminal investigations and other matters. It is the role of the inspection entity to ensure that law enforcement agencies in Tasmania (principally Tasmania Police and the Integrity Commission) comply with their record keeping obligations under the Act. My delegated officers conduct inspections of records held under the Act at least once every year and I make a written report to the relevant ministers on the results of each inspection. The Minister for Justice then causes a copy of the report to be laid before each House of Parliament. A copy of my latest report on this financial year's inspection can be obtained through Hansard on the Parliamentary website.

Police Powers (Controlled Operations) Act 2006

This Act provides for the authorisation, conduct and monitoring of controlled police operations. As with the Surveillance Devices Act, it is the role of the inspection entity to ensure that law enforcement agencies comply with their record keeping obligations under the Act and again, a copy of my latest report on the inspection can be obtained through Hansard.

Telecommunications (Interception) Tasmania Act 1999

Tasmania Police is obliged to keep certain specified records relating to telecommunications interceptions. These records must be inspected by my office at least once every six months to ensure Tasmania Police is complying with its obligations. I am required to report to the relevant minister on the inspections at the end of each financial year. The Minister must then provide a copy of the report to the relevant Commonwealth Minister. My officers conducted inspections in December 2021 and June 2022. As in preceding years, Tasmania Police was at all times cooperative in facilitating inspections and I was satisfied with the comprehensiveness and adequacy of the records maintained.

Misuse of Drugs Act 2001

Section 38B of the *Misuse of Drugs Act 2001* allows the Commissioner of Police to issue authorisations for police officers, employees or correctional officers (authorised persons) to possess and supply controlled substances, such as heroin, cocaine, cannabis and methylamphetamine hydrochloride. The purpose of the Commissioner of Police issuing an authorisation under section 38B to authorised persons, is to allow for the possession and supply of controlled substances to be used for the training and assessing of drug detection dogs and the transport of the controlled substances to other police officers, interstate or federal police officers or correctional officers. I am required under s38I of the Act to prepare a report, after receiving an operational report from the Commissioner of Police, setting out:

- (a) a summary of the matters provided in the operational report;
- (b) my opinion as to the comprehensiveness and adequacy of the records of the Commissioner of Police kept under section 38G;
- (c) my opinion as to whether the authorisations to which the operational report relates have been effective and appropriate; and
- (d) my comments and suggestions as to how the issue, supervision and implementation of authorisations may be improved.

The operational report, pursuant to s38H(1), is required to contain:

- (a) the number of authorisations issued during the financial year;
- (b) the purposes for which the authorisations were issued; and
- (c) a summary of the details specified in each report received by the Commissioner of Police under section 38F(1).

Summary of the operational report

The Commissioner advised that six police officers and two correctional officers had been issued with authorisations for the 2021-2022 financial year. The Commissioner provided a copy of each authorisation as well as each of the authorised person's written reports required under s38F of the Act.

The Commissioner advised that one authorisation was cancelled during the reporting year; a police officer from the Dog Handler Unit was transferred and the Commissioner was satisfied that this authorisation was no longer necessary. The Commissioner enclosed a copy of the cancellation notice with his report.

The Commissioner reported on the ongoing purpose of issuing an authorisation under s38B of the Act to each officer, to allow for the possession and supply of controlled substances for the training and assessing of drug detector dogs. He stated that the controlled substances can be used to train new drug detector dogs, for the ongoing training of the dogs, remedial training when required and for annual validation assessments of the dogs.

The Commissioner advised that Tasmania Police has four drug detector dogs, two based in Hobart and one each in Launceston and Devonport. Each dog has a primary handler who uses the dog operationally and trains the dog on a regular basis. The remaining police officers with authorisations are relief handlers who manage the dogs when the primary handlers are on leave or unavailable.

The Commissioner further advised that the Tasmania Prison Service (TPS) has two drug detector dogs and two handlers. Direct inquiries with TPS confirmed it actually has three drug detector dogs.

The Commissioner provided copies of each of the authorised person's reports. No issues of concern were identified in the reports but I have outlined below some details that were identified:

- The 2020/21 authorisations expired on 28 July 2021, with the new authorisation not being signed and dated by the Commissioner until 3 August 2021. The Commissioner ensured that all authorised persons were advised that no controlled substances could be lawfully accessed for training purposes until the new authorisations were signed and issued by the Commissioner. The Commissioner provided a copy of the advice provided to the authorised persons to this effect.
- The Southern District reports prepared by the authorised police officers show that possession of the controlled substances is recorded with appropriate detail and accuracy.
- The Northern District reported multiple samples of controlled substances being held unnecessarily, these were delivered to the Hobart Drug Store for destruction on 19 July 2021. The reports prepared by the authorised police officers show that possession of the controlled substances is recorded with appropriate detail and accuracy.
- The report from the Western District showed that one of the dogs detects explosives, so there is less need for its handler to access the controlled substances and this is reflected in the report. This authorised person does provide relief handling of the drug detection dog when required. The reports prepared by the authorised police officers show that possession of the controlled substances is recorded with appropriate detail and accuracy.
- The TPS conducted an audit of controlled substances and prescription medication and this did not identify any adverse issues in relation to the storage, management and supervision of the controlled substances. The reports prepared by the authorised correctional officers reflect the possession and supply of the controlled substances and that possession of the controlled substances is recorded with appropriate detail and accuracy.
- The TPS reports did note the impact that the Covid-19 pandemic combined with significant amounts of leave being used by members had on the operational capacity of the TPS and the Drug Detector Dog Unit. This resulted in controlled substances being used for training purposes within the secure drug vault rather than being signed out.

The Commissioner advised that no details were omitted from his report to me on the basis that they would compromise the lawful carrying out of any duties by a police officer.

My Opinion

As noted above, I have to express an opinion as to the comprehensiveness and adequacy of the records of the Commissioner of Police kept under s38G and whether the authorisations to which the operational report relates have been effective and appropriate.

The Commissioner's report required no clarification regarding the matters reported on, except for TPS having three dogs. The Commissioner provided copies of all the records that were made in the reporting year under s38G of the Act. I was satisfied on reviewing the report and those records that the records were comprehensive and adequate. The authorised person reports required under s38F contained all the required details and the cancellation of one of the authorisations was in accordance with s38C.

Having reviewed those reports I was also satisfied that the authorisations to which the operational report relates have been effective and appropriate. When a police officer no longer required an authorisation it was cancelled in a timely manner and the remaining authorisations were otherwise required by the dog handlers and relief dog handlers so they could fulfil the requirements of their positions.

I am required to make comments or suggestions in relation to how the issue, supervision and implementation of authorisations may be improved. I have no comments or suggestions this reporting year.

Energy Ombudsman Act 1998

Introduction

As Ombudsman I have various functions under the *Energy Ombudsman Act 1998*, and I perform these with the assistance of three staff: a Principal Officer and two part time Investigation Officers, together with support from the general office administration team.

Statistics

Statistics for the Energy Ombudsman jurisdiction are set out in Appendix C.

There was a small increase in approaches for the reporting year, with a 7% increase in complaints received and a 3% increase in enquiries received.

There was also a 46% increase in out of jurisdiction enquiries received.

I did not receive any complaints against TasGas Retail and TasGas Networks during the reporting year.

For people not familiar with the Tasmanian domestic electricity market, it should be noted that Aurora Energy is the primary retailer and operates in Tasmania alongside several smaller retailers. Aurora Energy's prices are regulated and determined by the Tasmanian Economic Regulator.

Complaint Trends

Complaint trends have remained reasonably consistent, but with a number of notable exceptions.

Complaints about bills based on the estimation of electricity consumption reduced significantly from the previous reporting year. This is due to TasNetworks recommencing reading accumulation meters after the peak of the COVID-19 pandemic and the increasing proactive installation of advanced meters throughout Tasmania.

Complaints about high bills continued to be the predominant billing issue with just a minor decrease during the reporting year. I believe that this continues to be a consequence of the disruptions that occurred during the COVID lockdown and beyond. These disruptions include TasNetworks suspending meter reads for a period in mid-2020 and the Australian Energy Regulator's (AER) Statement of Expectations, which required, among other things, that retailers not disconnect customers in financial hardship or refer debt to creditors for recovery. The Statement of Expectations was in force until July 2021 which did cause some consumers to increase their debt without making any contribution over the period.

Complaints about completed or pending disconnections increased from three to eight for the period. This increase was expected following the ending of the Statement of Expectations in July 2021. However, I understand that retailers generally took a reasonable approach when re-instating disconnections which has ensured that complaints about disconnections did not increase exponentially.

It is reasonable to conclude that Aurora Energy, as the primary domestic retailer in Tasmania, continues to engage with customers experiencing payment difficulties before they escalate their concerns to me. It is often the case that I only hear from a consumer after they have been disconnected or just prior to disconnection, so it is encouraging that the numbers are staying relatively low.

Approximately 60% of complaints made to me are closed as “Resolved – facilitated resolution”. These complaints are generally finalised after a detailed explanation has been provided to the complainant. Many complaints made to me result from complainants believing there has been some maladministration or negligence that has given rise to their particular concerns, but it is often the case that complainants simply have not been given sufficient details or an adequate explanation by the relevant entity to address their concerns.

Approximately 30% of complaints were closed as ‘Resolved – negotiated resolution’. Generally, these complaints were resolved by the complainant obtaining the outcome they were initially seeking or an outcome I suggested as reasonable.

Just under 10% of the complaints made to me were closed as “Complaints referred to a higher level”. These complaints are assessed as appropriate to be referred back to Aurora Energy’s Customer Advocacy Team directly. This has been a beneficial process for all parties involved as these complaints can be dealt with quickly by Aurora Energy without the need for further investigation.

My office provides a valuable community service by analysing complaint issues and providing broad and detailed responses as a means of resolving complaints, generally to the satisfaction of the complainant.

Issues

Notable issues for this reporting year include:

Billing

Complaints about access to electricity meters and bills based on estimated consumption decreased from 16 to five. This is undoubtedly a result of the roll-out of advanced meters by Aurora Energy since December 2017. Advanced meters are read remotely without the need for a meter reader to enter a property. I anticipate this issue will continue to decrease as the roll-out of these meters progresses.

A notable increase in the “other” sub category of billing complaints is worth mentioning as it increased from four last year to 12 this reporting year. This is a catch all for complaint issues that do not fit in to another category. In this case, the majority of the “other” complaints I received concerned opening and closing accounts as a consequence of the increased numbers of retailers operating in the now contestable Tasmanian market which provides the opportunity for consumers to switch retailers. Ultimately, this process can lead to some complications with opening and closing accounts.

Credit

Complaints about credit and payment difficulties have more than doubled from the previous reporting year, increasing from six to 13. The obvious reason for this was the re-introduction of retailers seeking payment for outstanding debt following the COVID-19 pandemic. When the AER'S Statement of Expectations ended in July 2021, retailers set about recovering some debt which ultimately lead to credit action where mutually acceptable arrangements could not be negotiated.

Further, it seems that Aurora Energy continues to make reasonable efforts to engage directly with its customers regarding outstanding bills before they are raised with me as a complaint.

Customer Service

Customer service complaints continue to be a significant issue in this reporting year. Concerns raised with me about dissatisfaction with customer service are often a second tier matter associated with the primary complaint. It is understandable that some customers become frustrated with the process to resolve their concerns, but it is important not to lose sight of the primary issues that have been raised in the complaint.

Land

Complaints in this category have decreased from 18 last year to ten for this reporting year. They include complaints about the cost to relocate assets to a more convenient location and disputes over who is liable for those costs, responsibility for vegetation management around electricity infrastructure, street lighting and easement issues.

These complaints can be quite complex and require a degree of negotiation between the parties to achieve an acceptable outcome.

My Investigation Officers often find it very helpful to initially meet complainants on site to gain a clearer understanding of the issues raised in the complaint.

Supply

There has been a substantial decrease in complaints about power outages over the reporting year, particularly in relation to unplanned outages.

Predominately these complaints are the basis for compensation claims made to TasNetworks for damage to electrical items or damaged perishable items following an outage. The complainant seeks my assistance in cases where TasNetworks has denied a claim for compensation because the unplanned outage was outside its control.

It is reasonable to expect home owners or occupiers to take some responsibility, so as far as possible, to limit damage to electrical items resulting from an outage or surge. Both TasNetworks and Aurora Energy make it clear that they cannot guarantee an electricity supply 100% of the time.

Other Matters

Embedded Networks

Embedded networks occur where the wiring to a multi tenanted building such as a retail complex, retirement village or caravan park, is configured in such a way that the owner/operator is able to sell energy to all the tenants or residents at the site.

The owner/operator of a site bulk purchases electricity from an authorised retailer through a parent meter and then on-sells electricity to each of the tenants. The owner/operator independently bills the tenants either by recording consumption through child meters at each tenancy or by dividing the consumption of electricity between the tenants.

In accordance with section 23 of the *National Energy Retail Law (Tasmania) Act 2012*, customers of an on-seller cannot benefit from the consumer protections (including the investigation of complaints) that are otherwise available to electricity consumers in Tasmania through my office.

I have concerns that customers within embedded networks do lack these protections and it is my intention to liaise with the relevant policy makers in Tasmania to have this changed in the future.

Networking

I meet with Aurora Energy and TasNetworks from time to time and receive updates in relation to a number of projects undertaken by both entities. I meet several times each year with the Australia and New Zealand Energy and Water Ombudsman Network (ANZEWO) and also engage in regular forums with my interstate counterparts on emerging energy technologies. These meetings have generally been held by way of video conferencing as a result of continuing caution around COVID-19.

My Principal Officer and Investigation Officers are in regular contact with Aurora Energy, TasNetworks and 1st Energy. My staff attend the TasNetworks Customer Council, meet with other Energy Ombudsman jurisdictions around Australia by way of teleconferences chaired by the AER, meet quarterly with the Tasmanian Economic Regulator's Customer Consultative Committee, and engage with the Australian Energy Regulator on relevant matters.

My staff also liaise with TasGas Retail and Networks and Hydro Tasmania as required.

Case Studies

Aurora Energy – February 2022

Delayed billing

A complaint was received from a business that started an account with Aurora Energy in May 2021. Unfortunately, due to delays by Aurora, the business did not receive its first bill until September 2021 and it was extremely high.

The business contacted Aurora and was advised that, historically, the premises uses a lot of power mainly due to the use of older style industrial panel heaters. To test this, the manager of the business immediately turned the heaters off and found that the energy consumption dramatically dropped.

The billing delay meant that the business was not aware of the un-economical heating method at the premises for a number of months. On this basis, Aurora agreed to re-rate the consumption taking into consideration that if the first invoice had been on time, it is likely the business would have been able to mitigate further high consumption in the following months. It was noted, however, that there was some responsibility on the business to perform its own energy assessment and that Aurora Energy cannot be expected to know the setup of the electrical items at a premises or how a business might consume energy.

The calculated reduction was based on the minimum consumption of a commercial building of a similar size. A credit of \$35,640.26 was offered and accepted by the complainant.

Aurora Energy – April 2022

Meter exchange delay

A complaint was received from a business regarding delays in installing an advanced meter at its premises. There had been three failed attempts to exchange the meter and a fourth attempt had been scheduled by Aurora Energy's metering provider. On each occasion the business was advised that the power supply would be interrupted for a period of time so staff were sent home early. The owners were concerned that a fourth attempt to exchange the meter may also be unsuccessful which would again result in an unnecessary impact to the business.

The reasons for the failed attempts included identifying an asbestos meter board, confusion over multiple meters onsite and a scheduling cancellation.

After discussions with Aurora, a successful meter exchange was completed on the fourth attempt and Aurora Energy agreed to apply a \$1,588.17 credit to the business's account for lost wages of the staff that were sent home early in anticipation of the power outages. The business was satisfied with this outcome.

1st Energy – May 2022

One-off signing bonus

A complainant found that they couldn't renew their "1st Plus Plan" with 1st Energy after 12 months and came to me for assistance.

Enquiries by my Investigation Officer found that the 1st Plus Plan is a one-off signing bonus designed to attract new customers to switch to 1st Energy. The plan is for a rebate of \$100 over 12 months with a \$50 credit applied on the 6th month of billing and another \$50 credit on the 12th month of billing.

The complainant had signed up to 1st Energy after marketers approached them at a shopping centre. The complainant believed the marketers had told them that after the 12 months had passed they simply needed to contact 1st Energy again to renew the plan to continue to receive the bonuses.

There was no way of confirming what verbal information had been provided at the time of signing the complainant. However, sign-up documents clearly outlined the terms and conditions of the plan.

An explanation was provided to the complainant that they could not hold 1st Energy accountable to provide the sign up bonus indefinitely as it was a contractual arrangement. To resolve the complaint 1st Energy agreed to provide the complainant with 1 more year on the 1st Plus Plan which would entitle them to two additional \$50 payments over 12 months. The complainant was satisfied with this outcome.

Official Visitor Programs

Overview

The Prison Official Visitors Scheme and the Mental Health Official Visitors Scheme are administered from my Office with the support of a part-time manager and part-time administrative officer.

Prison Official Visitors

Prison Official Visitors play a vital role in monitoring and reporting on the treatment and conditions of prisoners and detainees in the State's prisons. They also assist prisoners and detainees to raise and resolve concerns and complaints.

The Ombudsman is the Coordinator of the Official Visitors Scheme.

Visitors are appointed by the Minister under the *Corrections Act 1997* for a fixed term of three years. They act independently and may report to the Minister or the Director on:

- the management or disciplining of a prisoner or detainee, or the conduct of correctional officers or State Service corrections employees, at a prison visited by the official visitor; or
- any matter relating to the treatment or condition of prisoners or detainees at that prison; or
- the state of the prison.

At the end of the reporting period there were six Visitors who, between them, visited all the correctional facilities in the State. These facilities include the Reception Prisons in Hobart and Launceston as well as the facilities at the Risdon Prison Complex.

Visitors come from diverse backgrounds, with a range of experience, expertise and skills. They each bring their own perspective to the role. Their combined observations provide a detailed picture of the prison environment, its management and the prevailing concerns of prisoners and detainees.

Corrective Services and Correctional Officers recognise and respect the role of Official Visitors, who regularly report a high level of cooperation from management and staff during their visits. They are allowed free access to prisoners and detainees, who are able to raise matters of concern to them in an informal and confidential way. If these concerns relate to matters of routine or day to day management, the Visitors are often able to resolve them on the spot.

Visitors regularly debrief with custodial managers at the conclusion of their visits and are able to convey to management directly what they have seen or had brought to their attention, and what needs to be addressed.

Official Visitors facilitate more formal complaints to me by providing inmates with Ombudsman complaint forms. These are also provided to prisoners and detainees by prison officers and management upon request, but many prisoners are not comfortable asking for them and often need the process to be explained.

As Visitors visit each facility and unit on a regular basis, they are able to monitor change and the manner in which prisoners' concerns are being dealt with. A total of 51 visits were made to correctional facilities during the reporting year.

Mental Health Official Visitors

The *Mental Health Act 2013* commenced operation on 17 February 2014.

The Act maintains the role of Official Visitors but also established the position of Principal Official Visitor. The Ombudsman is the Principal Official Visitor.

Official Visitors continue to visit approved facilities which include the secure mental health unit (the Wilfred Lopes Centre) at least once a month. In addition Official Visitors may visit premises from which patients are provided with services under the Act.

They also monitor the adequacy and quality of approved facilities, with particular regard to the recreational, occupational, training and rehabilitation facilities available to patients.

Apart from visiting patients with this sort of oversight in mind, Official Visitors also refer complaints and suspected contraventions of the Act or other matters that require investigation to the Principal Official Visitor.

Section 166 of the Act requires the Principal Official Visitor to give the Minister for Health a report on the activities of Official Visitors during the financial year.

General

With the rapid spread of COVID-19 and its associated risk to patients and prisoners and particularly to older persons, visits to prisons did not occur from July 2020 to September 2020. Visits to patients in approved facilities recommenced early in July 2020.

During this period all prisoners were able to contact my office using the Arunta telephone system and patients in approved hospitals were able to contact an Official Visitor using the free 1800 number.

Appendix A - Ombudsman Act

Complaint and Enquiry Summary

Table 5 – Enquiry Activity - Ombudsman

Enquiries	2020-21	2021-22	Variance
Enquiries opened and closed in the period	538	520	-3%
Out of jurisdiction enquiries (OOJs)	520	520	0%
Total	1058	1040	-2%

Table 6 – Complaint Activity – Ombudsman

Complaints	2020-21	2021-22	Variance
Opened in period	715	907	27%
Closed in period	696	887	27%

Table 7 – Summary of complaints closed

Outcome	2020-21	2021-22	Variance
Discontinued	17	47	176%
No defective administration	220	336	53%
Fully or partially substantiated	106	98	-8%
Declined, referred, or out of jurisdiction	331	384	16%
Total	674	865	28%

Excludes PIP and PID cases

Complaints against State Government

Table 8 – Summary of Complaints against State Government

Department	Received 2020-21	Received 2021-22	Closed 2021-22	Declined, Referred or Out of Jurisdiction (OOJ)	Discontinued	No Defective Administration	Partly or Fully Substantiated
Communities	80	81	85	16	11	49	9
Education	14	23	24	7	1	12	4
Health	8	16	12	11	1	0	0
Justice	160	257	261	50	14	166	31
Natural Resources and Environment	21	9	7	2	0	3	2
Office of the Ombudsman and Health Complaints Commissioner	5	1	2	0	0	1	1
Police, Fire and Emergency Management	52	61	60	36	4	14	6
Premier and Cabinet	2	21	22	8	2	6	6
State Growth	16	21	23	7	1	13	2
Tasmanian Health Service (THS)	8	4	3	1	0	1	1
Treasury and Finance	12	13	11	7	0	4	0
Total	378	507	510	145	34	269	62

Table 9 – Department of Communities Tasmania

Section	Received 2020-21	Received 2021-22	Closed 2021-22	Declined, Referred or OOJ	Discontinued	No Defective Administration	Partly or Fully Substantiated
Ashley Youth Detention Centre	1	2	2	0	0	0	2
Children and Youth Services	17	12	14	2	4	6	2
Disability and Community Services	1	0	0	0	0	0	0
Housing Services	0	3	2	0	0	2	0
Housing Tasmania	50	58	61	11	6	40	4
Youth Justice Services	1	0	0	0	0	0	0
Departmental / Not Specified	10	6	6	3	1	1	1
Total	80	81	85	16	11	49	9

Table 10 - Department of Education

Section	Received 2020-21	Received 2021-22	Closed 2021-22	Declined, Referred or OOJ	Discontinued	No Defective Administration	Partly or Fully Substantiated
TasTAFE	2	5	5	3	0	1	1
Departmental / Not Specified	12	18	19	4	1	11	3
Total	14	23	24	7	1	12	4

Table 11 – Department of Health

Section	Received 2020-21	Received 2021-22	Closed 2021-22	Declined, Referred or OOJ	Discontinued	No Defective Administration	Partly or Fully Substantiated
Health Services	1	3	2	2	0	0	0
Mental Health Services	1	0	0	0	0	0	0
Population Health	2	4	3	3	0	0	0
Statewide Systems Development	1	0	0	0	0	0	0
Ambulance and Health Transport Services	0	1	1	1	0	0	0
Departmental/Not specified	3	8	6	5	1	0	0
Total	8	16	12	11	1	0	0

Table 12 – Department of Justice

Section	Received 2020-21	Received 2021-22	Closed 2021-22	Declined, Referred or OOJ	Discontinued	No Defective Administration	Partly or Fully Substantiated
Consumer, Building and Occupational Services	22	18	21	3	2	12	4
Crown Law	1	0	0	0	0	0	0
Equal Opportunity Tasmania	0	2	2	0	0	1	1
Guardianship and Administration Board	2	4	4	2	0	2	0

Section	Received 2020-21	Received 2021-22	Closed 2021-22	Declined, Referred or OOJ	Discontinued	No Defective Administration	Partly or Fully Substantiated
Magistrates Courts	1	0	0	0	0	0	0
Mental Health Tribunal	0	1	1	0	0	1	0
Monetary Penalties Enforcement Service	3	3	3	0	0	3	0
Parole Board	1	1	1	0	0	1	0
Prison Services	122	221	222	40	12	144	26
Public Guardian	2	1	1	1	0	0	0
Supreme Courts	1	0	0	0	0	0	0
Tasmanian Electoral Commission	0	1	1	1	0	0	0
Victims Support Service	0	1	1	0	0	1	0
Workplace Standards Tasmania	0	1	1	0	0	1	0
WorkSafe Tasmania	0	1	1	1	0	0	0
Departmental/Not specified	5	2	2	2	0	0	0
Total	160	257	261	50	14	166	31

Table 13 – Department of Natural Resources and Environment Tasmania⁶

Section	Received 2020-21	Received 2021-22	Closed 2021-22	Declined, Referred or OOJ	Discontinued	No Defective Administration	Partly or Fully Substantiated
Land Tasmania	3	3	3	1	0	1	1
Parks and Wildlife Service	1	0	0	0	0	0	0
Tasmanian Heritage Council	0	1	0	0	0	0	0
Departmental/Not Specified	17	5	4	1	0	2	1
Total	21	9	7	2	0	3	2

Table 14 - Office of the Ombudsman and Health Complaints Commissioner

Section	Received 2020-21	Received 2021-22	Closed 2021-22	Declined, Referred or OOJ	Discontinued	No Defective Administration	Partly or Fully Substantiated
Health Complaints Commission	3	0	1	0	0	0	1
Ombudsman Tasmania	2	1	1	0	0	1	0
Total	5	1	2	0	0	1	1

⁶ Previously known as Department of Primary Industries, Parks, Water and Environment

Table 15 – Department of Police, Fire and Emergency Management

Section	Received 2020-21	Received 2021-22	Closed 2021-22	Declined, Referred or OOJ	Discontinued	No Defective Administration	Partly or Fully Substantiated
Commissioners	0	2	1	0	0	1	0
Professional Standards	0	1	1	0	0	1	0
Tasmania Police	25	34	37	22	1	10	4
Tasmania Police Academy	1	0	0	0	0	0	0
Departmental/Not specified	26	24	21	14	3	2	2
Total	52	61	60	36	4	14	6

Table 16 – Department of Premier and Cabinet

Section	Received 2020-21	Received 2021-22	Closed 2021-22	Declined, Referred or OOJ	Discontinued	No Defective Administration	Partly or Fully Substantiated
Attorney-General	0	1	1	0	0	1	0
Local Government Division	0	1	0	0	0	0	0
Service Tasmania	1	2	2	1	0	0	1
Coronavirus Public Health Hotline	0	5	5	3	1	1	0
Departmental/Not specified	1	12	14	4	1	4	5
Total	2	21	22	8	2	6	6

Table 17 – Department of State Growth

Section	Received 2020-21	Received 2021-22	Closed 2021-22	Declined, Referred or OOJ	Discontinued	No Defective Administration	Partly or Fully Substantiated
Migration Tasmania	1	1	1	0	0	1	0
Skills Tasmania	3	0	0	0	0	0	0
Departmental/Not specified	12	20	22	7	1	12	2
Total	16	21	23	7	1	13	2

Table 18 - Tasmanian Health Service (THS)

Section	Received 2020-21	Received 2021-22	Closed 2021-22	Declined, Referred or OOJ	Discontinued	No Defective Administration	Partly or Fully Substantiated
Tasmanian Health Service – North	2	0	0	0	0	0	0
Tasmanian Health Service – South	0	1	1	0	0	1	0
Departmental/Not specified	6	3	2	1	0	0	1
Total	8	4	3	1	0	1	1

Table 19 – Department of Treasury and Finance

Section	Received 2020-21	Received 2021-22	Closed 2021-22	Declined, Referred or OOJ	Discontinued	No Defective Administration	Partly or Fully Substantiated
State Revenue Office	12	11	10	7	0	3	0
Departmental/Not specified	0	2	1	0	0	1	0
Total	12	13	11	7	0	4	0

GRAND TOTAL	287	507	510	145	34	269	62
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Complaints against Local Government

Table 20 – Complaints against Local Government

Council	Received 2020-21	Received 2021-22	Closed 2021-22	Declined or OOJ	Discontinued	No Defective Administration	Partly or Fully Substantiated
Break O'Day Council	3	1	2	1	0	1	0
Brighton Council	0	3	2	2	0	0	0
Burnie Council	0	4	4	1	0	2	1
Central Coast Council	0	2	1	1	0	0	0
Central Highlands	1	0	0	0	0	0	0
Circular Head	4	1	1	1	0	0	0
City of Hobart	9	10	9	4	1	3	1
Clarence City Council	5	9	8	1	4	2	1
Derwent Valley Council	1	1	1	1	0	0	0
Devonport City Council	2	6	5	2	0	3	0
Dorset Council	2	2	1	0	0	1	0
George Town Council	0	2	1	0	0	0	1
Glamorgan Spring Bay Council	2	4	4	2	0	2	0
Glenorchy City Council	7	4	4	1	0	3	0

Council	Received 2020-21	Received 2021-22	Closed 2021-22	Declined or OOJ	Discontinued	No Defective Administration	Partly or Fully Substantiated
Huon Valley Council	2	5	5	1	1	3	0
Kentish Council	3	1	0	0	0	0	0
Kingborough Council	4	3	3	2	0	1	0
Latrobe Council	3	2	2	1	0	1	0
Launceston City Council	7	6	5	3	0	2	0
Meander Valley Council	1	3	3	2	0	1	0
Northern Midlands Council	4	3	2	1	0	0	1
Northern Tasmanian Development Corporation	1	0	0	0	0	0	0
Sorell Council	6	4	3	0	0	2	1
Tasman Council	1	3	2	1	0	0	1
Unknown Council	0	1	1	0	1	0	0
Waratah/Wynyard Council	2	3	3	1	1	1	0
West Coast Council	2	2	2	0	0	1	1
West Tamar Council	5	3	5	2	1	2	0
Total	77	88	79	31	9	31	8

Complaints against Public Authorities, Government Business Enterprises and Other Authorities

Table 21 – Complaints against Public Authorities, GBEs and Other Authorities

Authority or Enterprise	Received 2020-21	Received 2021-22	Closed 2021-22	Declined, Referred or OOJ	Discontinued	No Defective Administration	Partly or Fully Substantiated
Board of Architects of Tasmania	1	0	0	0	0	0	0
Legal Aid Commission of Tasmania	1	0	0	0	0	0	0
Metro Tasmania	0	3	3	1	0	2	0
Motor Accidents Insurance Board	1	1	0	0	0	0	0
Pharmacy Board of Tasmania	0	1	1	1	0	0	0
Property Agents Board	1	1	1	1	0	0	0
Retirement Benefits Fund Board	6	6	7	3	0	1	3
TasNetworks	0	1	1	1	0	0	0
TasRail	1	0	1	0	0	0	1
TasWater	34	30	25	3	0	21	1
The Legal Profession Board of Tasmania	1	0	0	0	0	0	0
The Public Trustee	10	15	17	8	0	4	5
TT Line	2	2	2	2	0	0	0
University of Tasmania	11	33	34	5	4	8	17
Total	69	93	92	25	4	36	27

Complaint Summaries

Table 22 – Out of Jurisdiction Complaints

Out of Jurisdiction Complaints	Received 2020-21	Received 2021-22	Closed 2021-22
Total	170	187	184

Table 23 – Personal Information Protection Matters and Public Interest Disclosures

	Received 2021-22	Closed 2021-22
Personal Information Protection Matters	11	6
Public Interest Disclosures	19	16

Table 24 – Total Cases Opened, Closed and Substantiated

Complaints	Received 2020-21	Received 2021-22	Closed 2021-22	Declined, Referred or OOJ	Discontinued	No Defective Administration	Partly or Fully Substantiated
Total	694	907	887	384	47	336	98

Figure 1 - Who is being complained about?

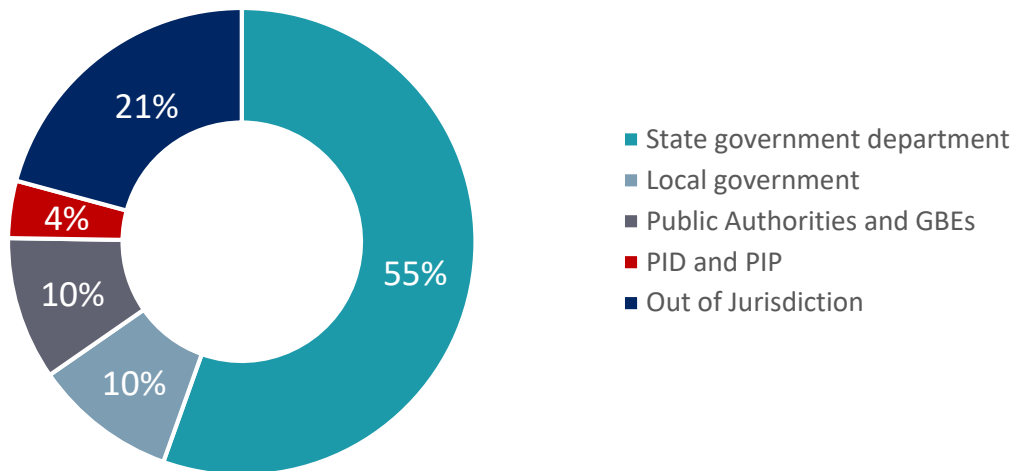


Table 25 - Percentage of total complaints per department

Department	Percentage
Communities	16.0%
Education	4.5%
Health	3.2%
Justice	50.7%
Natural Resources and Environment Tasmania	1.8%
Office of the Ombudsman & Health Complaints Commissioner	0.2%
Police, Fire and Emergency Management	12.0%
Premier and Cabinet	4.1%
State Growth	4.1%
Tasmanian Health Services	0.8%
Treasury and Finance	2.6%
Total	100%

Table 26 – Most common complainant objectives

Issue	Number
Explanation	249
Other objective	225
Adequate Service	169
Change to procedure or policy	123
Financial correction	108
Access to service	91
Register concern	81

Table 27 – Most common issues against Prisons

Issue	Number
Classification or placement	26
Administrative issues	23
Daily routine	17
Property	13
Visits	11
Failure to ensure physical safety	9
Medical	8

Table 28 – Most common issues against Councils

Issue	Number
Administration and general management	12
Building	8
Rates and charges	8
Nuisance	7
Planning	7

Figure 2 – Time taken to resolve complaints – Ombudsman

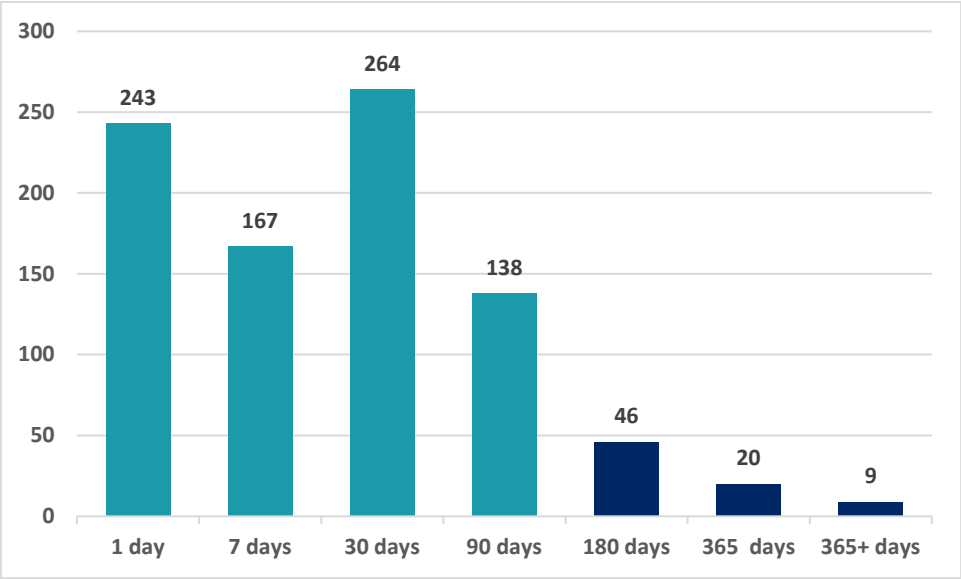
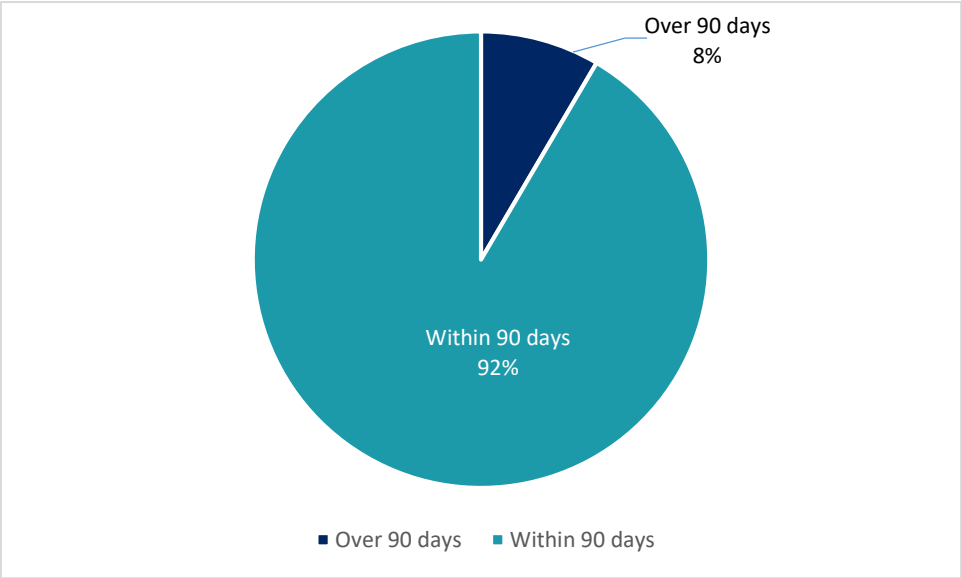


Figure 3 – Complaints resolved within 90 days - Ombudsman



Appendix B – Right to Information Act

Table 29 – Summary of RTI Reviews

Authority	Applications Received 2020-21	Applications Received 2021-22	Closed 2021-22	Reviews Undertaken	Authority's Decision Affirmed
State Government Department	51	30	33	13	3
Local Government Council	16	10	10	5	0
Statutory Authority or Other Body	3	7	3	3	0
Total	70	47	46	21	3

Table 30 – Right to Information Outcomes

Decision	2020-21	2021-22	Variance
Agency Decision Affirmed	6	3	-50%
Agency Decision Varied	6	13	117%
Agency Decision Set Aside	4	4	0%
Closed after preliminary view ⁷	0	1	-
Other ⁸	37	25	-32%
Total	53	46	-13%

⁷ 2021-22 New outcome reported on

⁸ 'Other' includes matters not progressed, withdrawn by applicant, negotiated resolution, information released and/or direction for a new decision to be made, or information released.

Table 31 – External Reviews against State Government Departments

Department	Applications Received 2020-21	Applications Received 2021-22	Closed 2021-22	Reviews Undertaken	Public Authority Decision Affirmed
Communities Tasmania	12	5	4	0	0
Education	2	2	2	2	0
Health	16	7	5	1	0
Justice	5	4	3	0	0
Natural Resources and Environment Tasmania ⁹	7	2	10	6	1
Office of the Ombudsman and Health Complaints Commissioner	1	0	0	0	0
Police, Fire and Emergency Management	3	3	5	2	2
Premier and Cabinet	1	1	0	0	0
State Growth	2	5	3	0	0
Tasmanian Health Service (THS)	2	0	0	0	0
Treasury and Finance	0	1	1	0	0
Total	51	30	33	11	3

⁹ Previously known as Department of Primary Industries, Parks, Water and Environment

Table 32 – External reviews against Local Government

Council	Applications Received 2020-21	Applications Received 2021-22	Closed 2021-22	Reviews Undertaken	Public Authority Decision Affirmed
Break O'Day Council	1	0	1	0	0
Central Coast Council	0	1	0	0	0
City of Hobart	2	0	1	1	0
City of Launceston	2	1	0	0	0
Clarence City Council	1	0	0	0	0
Devonport City Council	3	0	1	1	0
Dorset Council	0	1	0	0	0
Huon Valley Council	0	2	1	1	0
Kentish Council	0	0	0	0	0
Kingborough Council	0	1	1	1	0
Latrobe Council	0	1	1	0	0
Meander Valley Council	0	2	1	0	0
Northern Midlands Council	3	0	1	1	0
Sorell Council	1	0	1	0	0
Tasman Council	0	1	1	0	0
Waratah-Wynyard Council	1	0	0	0	0
West Coast Council	1	0	0	0	0
Total	15	10	10	5	0

Table 33 – External reviews against Statutory Authorities and Other Bodies

Statutory Authority or Other Body	Applications Received 2020-21	Applications Received 2021-22	Closed 2021-22	Reviews Undertaken	Public Authority Decision Affirmed
Hydro Tasmania	0	1	0	0	0
Minister for Primary Industries and Water	0	1	0	0	0
Minister for Resources	0	1	0	0	0
Northern Tasmanian Development Corporation	1	0	0	0	0
Sustainable Timber Tasmania	0	1	1	1	0
Tasmanian Building and Construction Industry Training Board	1	0	0	0	0
Tasmanian Ports Corporation Pty Ltd	0	0	0	0	0
TasNetworks	1	0	0	0	0
Teachers Registration Board	0	1	0	0	0
TT-Line Company Pty Ltd	0	1	1	1	0
University of Tasmania	1	1	1	1	0
Total	4	7	3	3	0

Figure 4 - Active external reviews by month

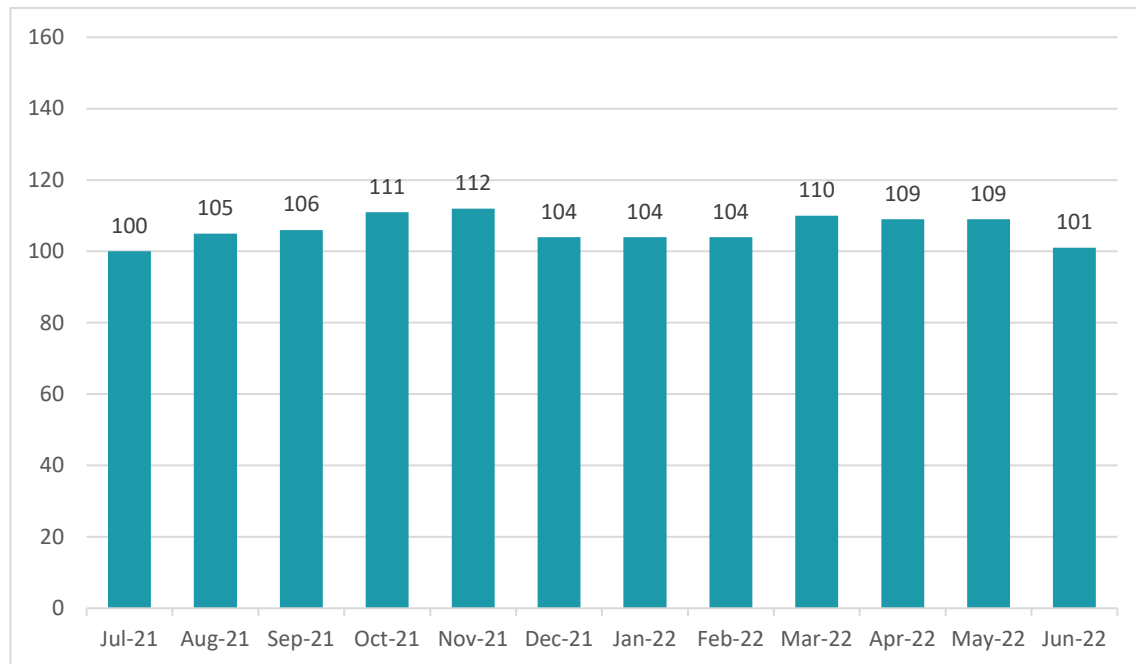


Figure 5 – External reviews requested vs closed by month

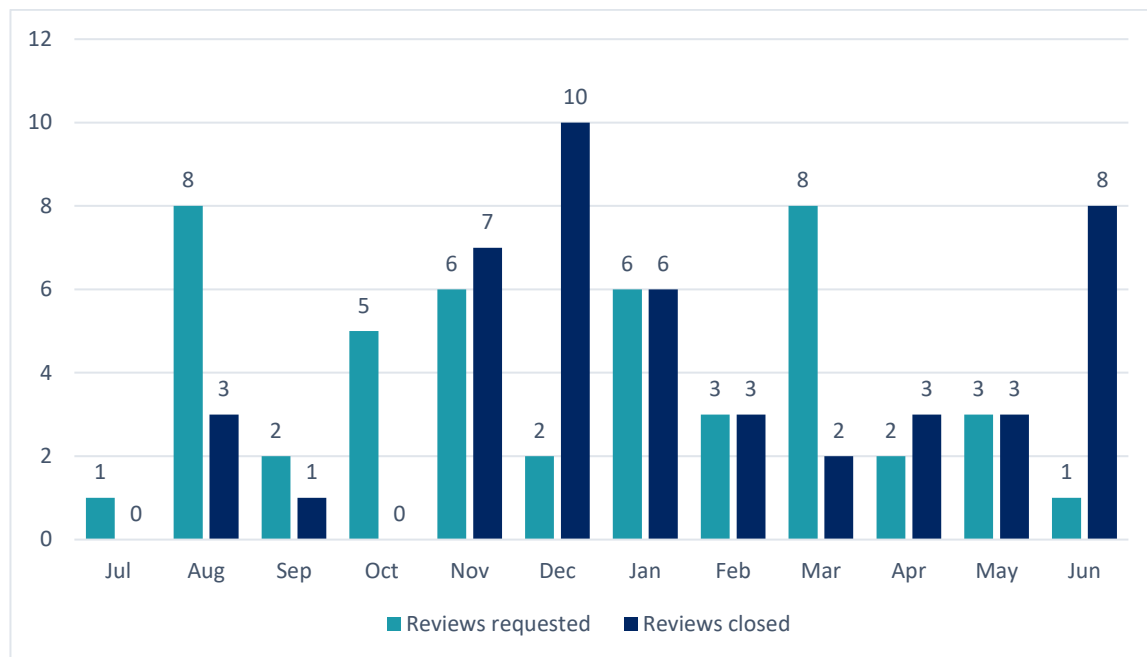


Figure 6 – External reviews opened by agency type

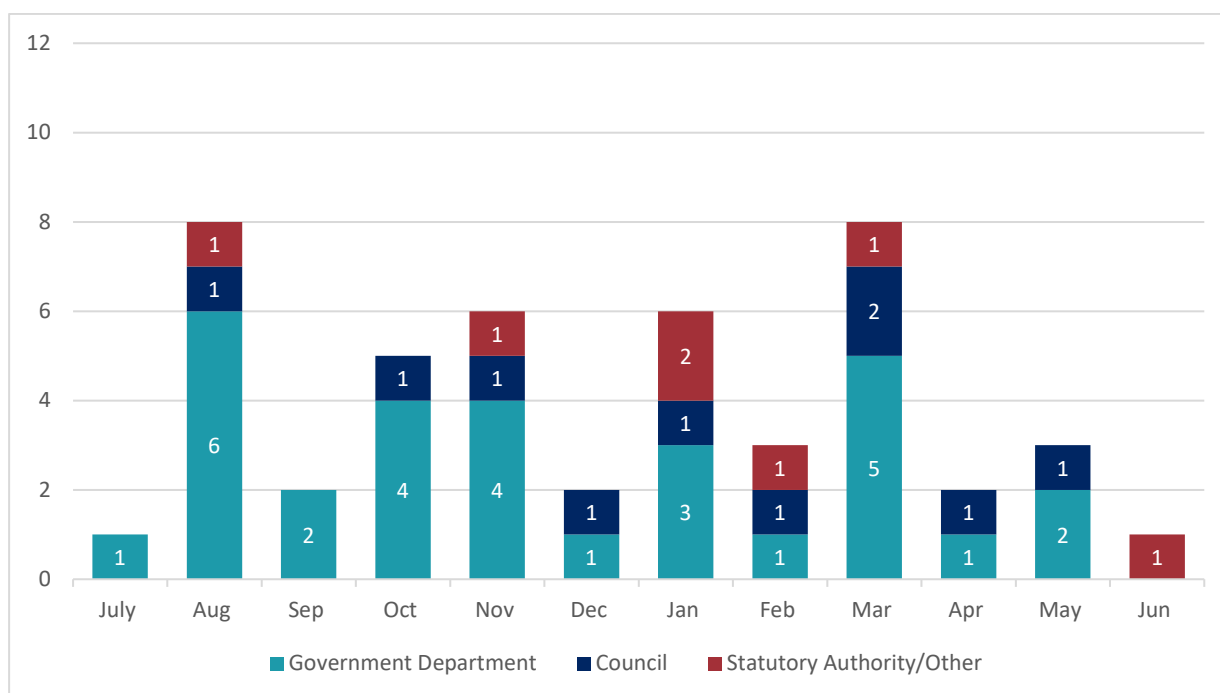


Figure 7 – External reviews closed by public authority type

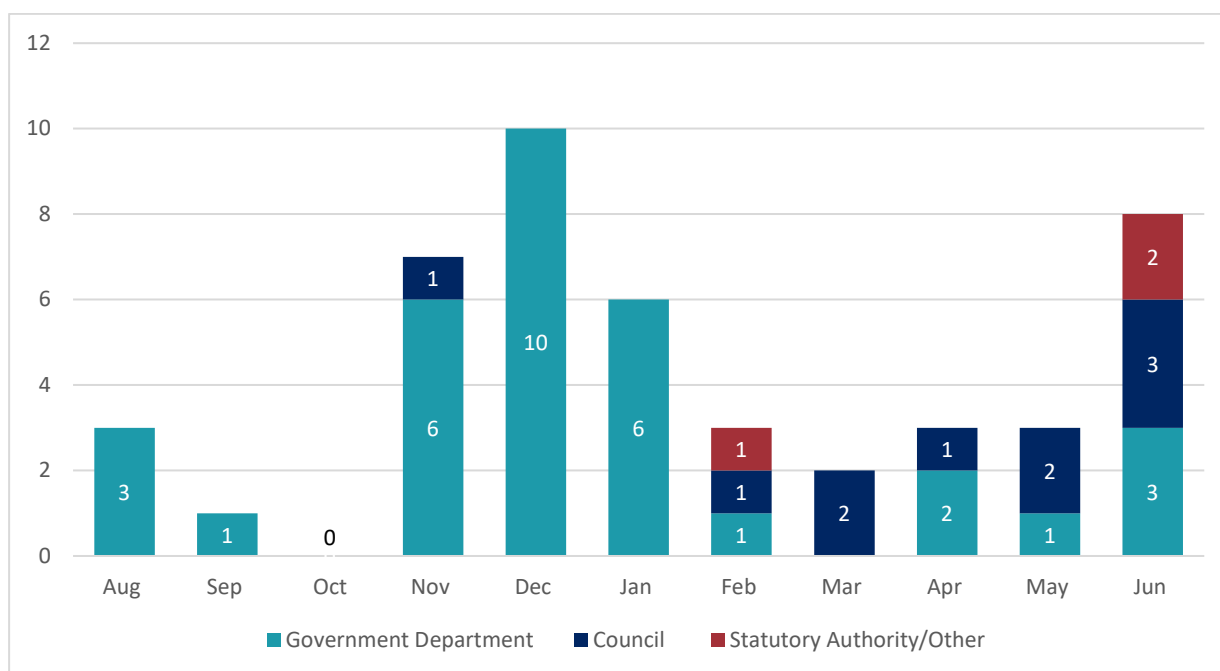
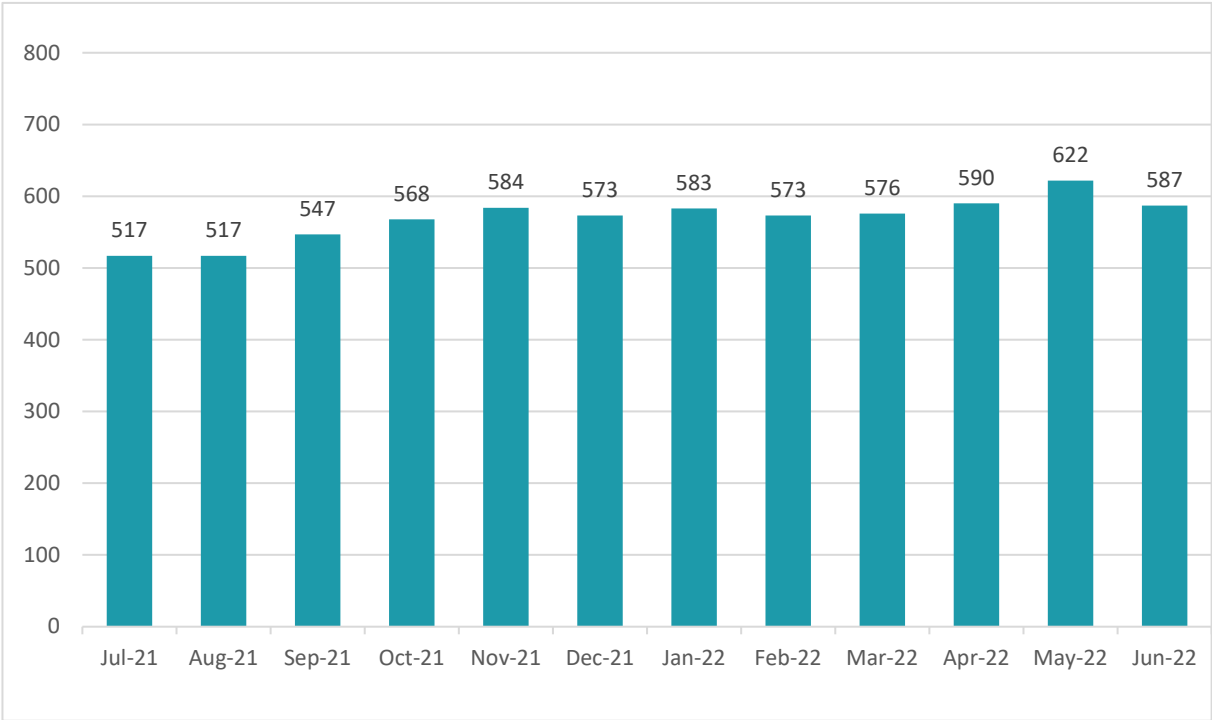


Figure 8 – External reviews – average days open



Appendix C – Energy Ombudsman Act

Complaint and Enquiry Summary

Table 34 – Enquiry Activity

Enquiries	2020-21	2021-22	Variance
Enquiries opened and closed in the period	154	158	0.03%
Out of jurisdiction enquiries	56	82	0.46%
Total	210	240	0.14%

Table 35 – Complaint Activity

Complaints	2020-21	2021-22	Variance
Opened in period	135	145	0.07%
Closed in period	191	178	-0.07%

Closure Reasons by Entity

Table 36 – Closure Reasons by Entity

Closure Reason	1 st Energy	Aurora Energy	Elysian Energy	TasGas Retail	Tas Networks	Total
Complaint withdrawn	0	1	0	0	0	1
Complaints referred to higher level	0	9	1	0	0	10
No further investigation – fair/reasonable offer	0	0	0	0	1	1
No further investigation – no further contact from customer	0	0	0	0	1	1
No further investigation – withdrawn by customer	0	1	0	0	0	1
Out of jurisdiction	0	2	0	0	0	2
Resolved - facilitated resolution	6	75	1	0	21	103
Resolved - negotiated resolution	18	30	1	0	10	59
Total	24	118	3	0	33	178

Summary of Issues by Category

Table 37 – Summary of Issues by Category

Issue	2020-21	2021-22
Billing	120	119
Credit	6	13
Customer Service	23	24
Land	18	10
Marketing	0	1
Provision	28	33
Supply	20	9
Total	215	209

Breakdown of Issues by Category

Table 38 – Billing

Issue	2020-21	2021-22
Backbill	5	1
Delay	7	10
Error	7	12
Estimation	16	5
Fees & charges	4	9
High	49	42
Meter	9	8
Other	4	12
Rebate/concession	6	5
Refund	3	3
Tariff	10	12
Total	120	119

Table 39 – Credit

Issue	2020-21	2021-22
Collection	2	0
Disconnection / restriction	3	8
Payment difficulties	1	5
Total	6	13

Table 40 – Customer Service

Issue	2020-21	2021-22
Failure to consult / inform	6	4
Failure to respond	4	5
Incorrect advice / information	6	7
No explicit informed consent (EIC)	1	1
Poor service	3	6
Privacy	3	1
Total	23	24

Table 41 - Land

Issue	2020-2021	2021-22
Easement	3	0
Network Assets	4	6
Other	2	2
Street Lighting	0	1
Vegetation Management	9	1
Total	18	10

Table 42 – Marketing

Issue	2020-21	2021-22
Information	0	1
Total	0	1

Table 43 – Provision

Issue	2020-21	2021-22
Disconnection / restriction	1	1
Embedded Networks	0	1
Existing connection	15	16
New connection	9	9
New meter – delay	0	1
Replacement meter – delay	3	5
Total	28	33

Table 44 – Supply

Issue	2020-21	2021-22
Off supply (planned)	9	6
Off supply (unplanned)	11	3
Total	20	9

Figure 9 – Time taken to resolve complaints - Energy

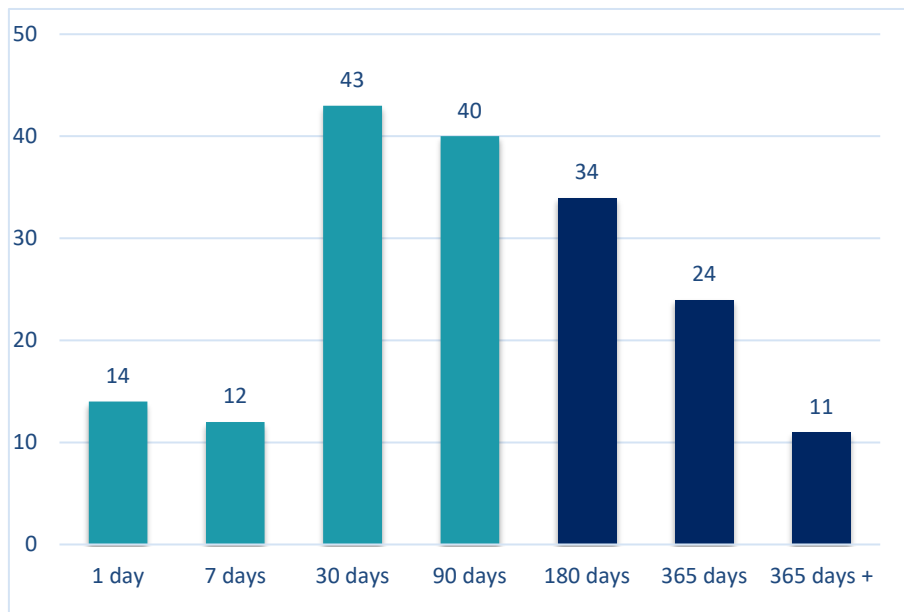


Figure 10 – Complaints resolved within 90 days - Energy

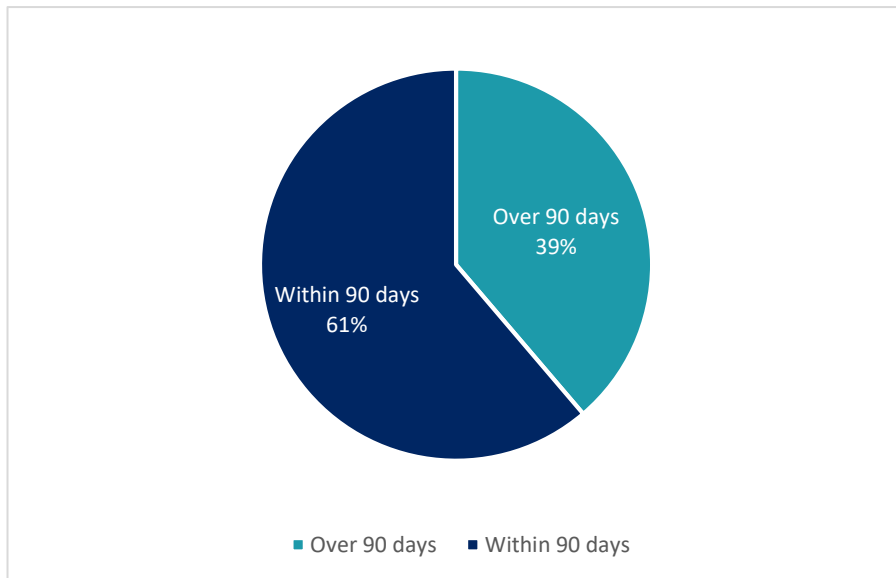
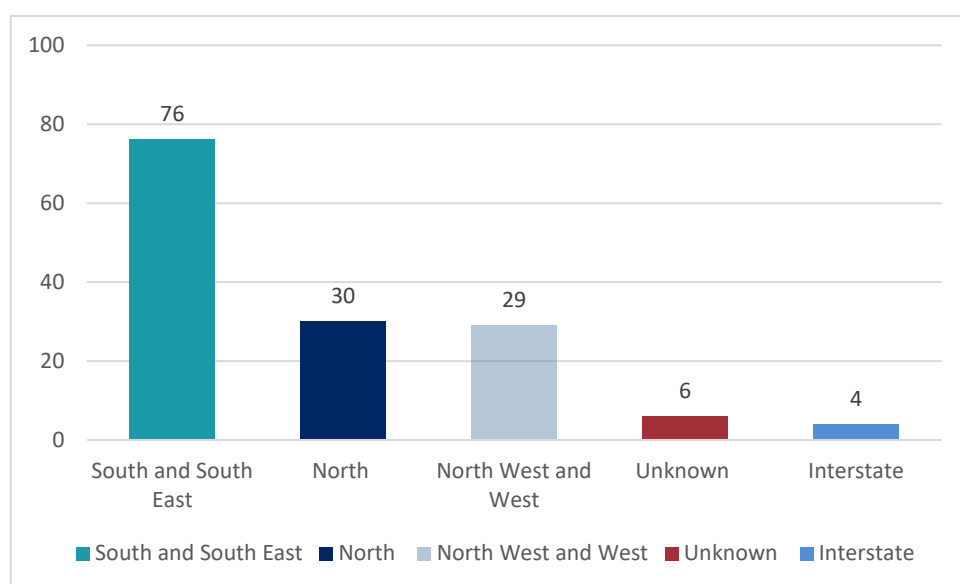


Figure 11 – Geographical location of complainants



Appendix D – Contracts and Consultancies Awarded

The Office of the Ombudsman and Health Complaints Commissioner ensures that Tasmanian businesses are given every opportunity to compete for Agency business. It is the Office's policy to support Tasmanian businesses whenever they offer best value for money for the Government.

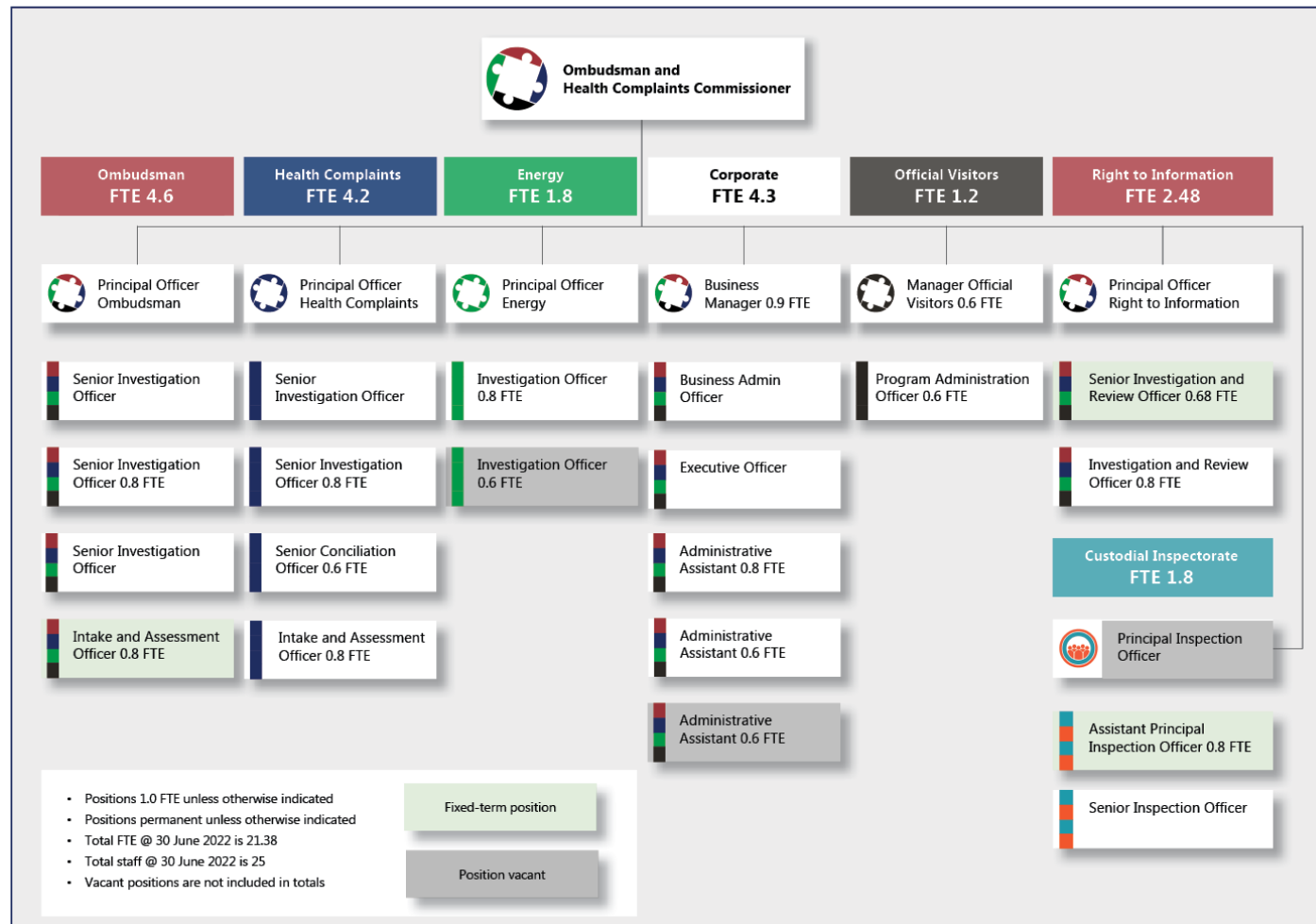
Office of the Ombudsman and Health Complaints Commissioner

- Professor Tony Bell – continued engagement for the provision of professional advice in order to improve the quality of the assessment work conducted by the Health Complaints team.
- KPMG were engaged to examine current administrative and operational processes, procedures and policies and deliver a suite of standard operating procedures that support processes common across all jurisdictions in the office - \$45,018
- Frank Neasey was engaged to provide advice on long-standing RTI cases - \$4,500
- FYB was engaged to provide advice on reviewing the OHCC business classification scheme to improve the office's record management system and processes - \$5,255
- Endswell Consulting was engaged to provide advice on a Public Interest Disclosure case - \$18,743.

Office of the Custodial Inspectorate

- Natalie Geard Communications (NGC) – The Custodial Inspectorate paid NGC \$1,087 in 2021-22.
- Contract to engage UTAS to undertake Mental Health research. The Custodial Inspectorate paid UTAS \$18,957 for these services.

Appendix E – Organisation Chart @ 30 June 2022



Appendix F – Financial Statements 2021-2022

The Financial Statements are provided from an external source and may not fully meet accessibility standards.



Office of the Ombudsman and
Health Complaints Commissioner

Financial Statements 2021-22

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Statement of Certification

The accompanying Financial Statements of the Office of the Ombudsman and Health Complaints Commissioner are in agreement with the relevant accounts and records and have been prepared in compliance with Treasurer's Instructions issued under the provision of the *Financial Management Act 2016* to present fairly the financial transactions for the year ended 30 June 2022 and the financial position as at the end of the year.

At the date of signing, we are not aware of any circumstances which would render the particulars included in the financial statements misleading or inaccurate.



Richard Cannock
OMBUDSMAN



Lianne Jager
BUSINESS MANAGER

26 September 2022

Office of the Ombudsman and Health Complaints Commissioner

Statement of Comprehensive Income for the year ended 30 June 2022

	Notes	2022 Budget \$'000	2022 Actual \$'000	2021 Actual \$'000
Income from continuing operations				
Revenue from Government				
Appropriation revenue - recurrent	2.1	3 246	2 936	2 585
Other Revenue from Government		93	-	-
Grants	2.2	-	-	100
Revenue from Energy Entities	2.3	557	441	682
Total revenue from continuing operations		3 896	3 377	3 367
Expenses from continuing operations				
Employee benefits	3.1	3 079	2 630	2 532
Depreciation and amortisation	3.2	32	46	44
Supplies and consumables	3.3	739	598	527
Other expenses	3.4	95	114	97
Total expenses from continuing operations		3 945	3 388	3 200
Net result from continuing operations (net operating balance)		(49)	(11)	167
Comprehensive result		(49)	(11)	167

This Statement of Comprehensive Income should be read in conjunction with the accompanying notes.

Budget information refers to original estimates and has not been subject to audit.

Explanations of material variances between budget and actual outcomes are provided in Note 1 of the accompanying notes.

Office of the Ombudsman and Health Complaints Commissioner

Statement of Financial Position as at 30 June 2022

	Notes	2022 Budget \$'000	2022 Actual \$'000	2021 Actual \$'000
Assets				
<i>Financial assets</i>				
Cash and deposits	7.1	324	286	383
Receivables	4.1	19	56	48
<i>Non-financial assets</i>				
Property, plant and equipment	4.2	406	539	417
Other assets	4.3	-	27	26
Total assets		749	908	874
Liabilities				
Payables	5.1	7	7	10
Employee benefits	5.2	595	582	534
Total liabilities		602	589	544
Net assets/(liabilities)		147	319	330
Equity				
Accumulated funds		147	319	330
Total equity		147	319	330

This Statement of Financial Position should be read in conjunction with the accompanying notes.

Budget information refers to original estimates and has not been subject to audit.

Explanations of material variances between budget and actual outcomes are provided in Note 1 of the accompanying notes.

Office of the Ombudsman and Health Complaints Commissioner

Statement of Cash Flows for the year ended 30 June 2022

	Notes	2022 Budget \$'000	2022 Actual \$'000	2021 Actual \$'000
		Inflow s (Outflow s)	Inflow s (Outflow s)	Inflow s (Outflow s)
Cash flows from operating activities				
Cash inflows				
Appropriation receipts – recurrent		3 246	2 936	2 585
Appropriation receipts – other		93	-	-
Grants		-	8	92
GST receipts		-	55	48
Revenue from Energy Entities		557	441	659
Total cash inflows		3 896	3 440	3 384
Cash outflows				
Employee benefits		(2 744)	(2 293)	(2 284)
Superannuation		(318)	(280)	(274)
GST payments		-	(71)	(54)
Supplies and consumables		(739)	(608)	(527)
Other cash payments		(95)	(115)	(96)
Total cash outflows		(3 896)	3 367	3 235
Net cash from/(used by) operating activities	7.2	-	73	149
Cash flows from investing activities				
Cash outflows				
Payments for leasehold improvements		-	(169)	(90)
Net cash from/(used by) investing activities		-	(169)	(90)
Net increase/(decrease) in cash held and cash equivalents		-	(97)	59
Cash and cash equivalents at the beginning of the reporting period		324	383	324
Cash and cash equivalents at the end of the reporting period 7.1		324	286	383

This Statement of Cash Flows should be read in conjunction with the accompanying notes.

Budget information refers to original estimates and has not been subject to audit.

Explanations of material variances between budget and actual outcomes are provided in Note 1 of the accompanying notes.

Office of the Ombudsman and Health Complaints Commissioner

Statement of Changes in Equity for the year ended 30 June 2022

	Accumulated surplus / deficit \$'000	Total equity \$'000
Balance as at 1 July 2021	330	330
Total comprehensive result	(11)	(11)
Total	(11)	(11)
Balance as at 30 June 2022	319	319

	Accumulated surplus / deficit \$'000	Total equity \$'000
Balance as at 1 July 2020	163	163
Total comprehensive result	167	167
Total	167	167
Balance as at 30 June 2021	330	330

This Statement of Changes in Equity should be read in conjunction with the accompanying notes.

Notes to and forming part of the Financial Statements for the year ended 30 June 2022

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Note 1 Explanations of Material Variances between Budget and Actual Outcomes

Budget information refers to original estimates as disclosed in the 2021-22 Budget Papers and is not subject to audit.

Variances are considered material where the variance exceeds the greater of 10 per cent of Budget estimate and \$125,000.

1.1 Statement of Comprehensive Income

	Note	Budget \$'000	Actual \$'000	Variance \$'000	Variance %
Appropriation revenue	(a)	3 246	2 936	(310)	(10)
Employee benefits	(b)	3 079	2 630	(449)	(15)
Supplies and consumables	(c)	739	598	(141)	(19)

Notes to Statement of Comprehensive Income variances

- (a) The Custodial Inspectorate were unable to recruit to vacant positions through 2021-22 which resulted in a significant end of year savings and a decrease in the expected appropriation revenue.
- (b) As above, the Custodial Inspectorate and other parts of the Office experienced difficult recruiting throughout the year which resulted in significant salary savings and reduced employee benefits expense.
- (c) A reallocation of budget from Supplies and Consumables to Leasehold Improvements was required to bring the expanded office tenancy up to fit for purpose standards.

1.2 Statement of Financial Position

Budget estimates for the 2021-22 Statement of Financial Position were compiled prior to the completion of the actual outcomes for 2021-22. As a result, the actual variance from the Original Budget estimate will be impacted by the difference between estimated and actual opening balances for 2021-22. The following variance analysis therefore includes major movements between the 30 June 2021 and 30 June 2022 actual balances.

	Note	Budget \$'000	2022 Actual \$'000	2021 Actual \$'000	Budget Variance \$'000	Actual Variance \$'000
Property, plant and equipment	(a)	406	539	417	133	122

Notes to Statement of Financial Position variances

- (a) The increase in property, plant and equipment relates to the building and construction work for the Level 7, NAB House office improvements that were not initially expected nor separately funded.

1.3 Statement of Cash Flows

	Note	Budget \$'000	Actual \$'000	Variance \$'000	Variance %
Appropriation receipt - recurrent	(a)	3 246	2 936	(310)	(10)
Employee benefits	(b)	2 744	2 293	(451)	(16)
Supplies and consumables	(c)	739	608	(131)	(18)
Payments for leasehold improvements	(c)	0	169	169	>100

Notes to Statement of Cash Flows variances

- (a) The Custodial Inspectorate were unable to recruit to vacant positions through 2021-22 which resulted in a significant end of year savings and a decrease in the expected appropriation revenue.
- (b) Difficulties recruiting to key positions was experienced across the office which resulted in salary savings and a decrease in the expected employee benefits expense.
- (c) A decrease in Supplies and Consumables was required to direct funds to leasehold improvements for the expanded office tenancy.

Note 2 Revenue

Income is recognised in the Statement of Comprehensive Income when an increase in future economic benefits related to an increase in an asset or a decrease of a liability has arisen that can be measured reliably.

Income is recognised in accordance with the requirements of AASB 15 *Revenue from Contracts with Customers* or AASB 1058 *Income of Not-for-Profit Entities*, dependent on whether there is a contract with a customer defined by AASB 15.

2.1 Revenue from Government

Appropriations, whether operating or capital, are recognised as revenues in the period in which the Office gains control of the appropriated funds as they do not contain enforceable and sufficiently specific obligations as defined by AASB 15. Except for any amounts identified as carried forward, control arises in the period of appropriation.

Revenue from Government includes revenue from appropriations, appropriations carried forward under section 8A(2) of the *Public Account Act 1986* and Items Reserved by Law.

Section 23 of the Financial Management Act allows for an unexpended appropriation at the end of the financial year, as determined by the Treasurer, to be issued and applied from the Public Account in the following financial year. The amount determined by the Treasurer must not exceed five per cent of an Agency's appropriation for the financial year.

The Budget information is based on original estimates and has not been subject to audit.

	2022 Budget \$'000	2022 Actual \$'000	2021 Actual \$'000
<i>Continuing operations</i>			
Revenue from Government			
Appropriation revenue - recurrent			
Current year	3 246	2 936	2 585
Total	3 246	2 936	2 585
Revenue from Government - other			
Appropriation Rollover under section 23 of the <i>Financial Management Act 2016</i>	93	-	-
Total	93	-	-
Total revenue from Government	3 339	2 936	2 585

2.2 Grants

Grants revenue, where there is a sufficiently specific performance obligation attached, are recognised when the Office satisfies the performance obligation and transfers the promised goods or services. The Office recognises revenue associated with performance obligations when the grant is receivable.

Grants revenue without a sufficiently specific performance obligation are recognised when the Office gains control of the asset (typically Cash).

Revenue from grants to acquire/construct recognisable non-financial assets to be controlled by the Office are recognised when the Office satisfies its obligations under the transfer. The Office typically satisfies the performance obligations under the transfer to construct assets over time as the non-financial assets are being constructed. The percentage of cost incurred is used to recognise income, because this most closely reflects the progress to completion.

	2022 \$'000	2021 \$'000
Grants Received under the Government's Public Building Maintenance Fund program	-	100
Total	-	100

2.3 Revenue from Energy Entities

Revenue from energy entities is recognised in the period in which the Office gains control of the funds. A membership fee is payable by each energy entity, within the meaning of the *Energy Ombudsman Act 1998*. A complaint levy is payable based on the number of complaints and enquiries received by the Ombudsman against an entity during the previous calendar year, as a proportion of the total number of complaints and enquiries received by the Ombudsman during that period.

	2022 \$'000	2021 \$'000
Energy Entities Membership and Complaint Levy Fees	441	682
Total	441	682

Note 3 Expenses

Expenses are recognised in the Statement of Comprehensive Income when a decrease in future economic benefits related to a decrease in asset or an increase of a liability has arisen that can be measured reliably.

3.1 Employee Benefits

Employee benefits include, where applicable, entitlements to wages and salaries, annual leave, sick leave, long service leave, superannuation and any other post-employment benefits.

(a) Employee costs

	2022	2021
	\$'000	\$'000
Wages and salaries	2 315	2 252
Superannuation – defined contribution scheme	249	229
Superannuation – defined benefit scheme	16	16
Other employee expenses	50	35
Total	2 630	2 532

Superannuation expenses relating to defined benefits schemes relate to payments into the Public Account. The amount of the payment is based on an employer contribution rate determined by the Treasurer, on the advice of the State Actuary. The current employer contribution is 13.45 per cent (2021: 12.95 per cent) of salary.

Superannuation expenses relating to defined contribution schemes are paid directly to the relevant superannuation funds at a rate of 10 per cent (2021: 9.5 per cent) of salary. In addition, the Office is also required to pay into to Public Account a “gap” payment equivalent to 3.45 per cent (2021: 3.45 per cent) of salary in respect of employees who are members of contribution schemes.

(b) Remuneration of Key Management Personnel

2022	Short-term benefits		Long-term benefits			Total
	Salary	Other Benefits	Super-annuation	Leave Benefits	Termination Benefits	
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Key management personnel						
Richard Connock, Ombudsman	272	20	27	11	-	330
	272	20	27	11	-	330

2021	Short-term benefits		Long-term benefits			Total
	Salary	Other Benefits	Super-annuation	Leave Benefits	Termination Benefits	
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Key management personnel						
Richard Connock, Ombudsman	260	20	25	8	-	313
	260	20	25	8	-	313

Key management personnel are those persons having authority and responsibility for planning, directing and controlling the activities of the agency, directly or indirectly.

Remuneration during 2021-22 for key personnel is set by the *State Service Act 2000*. Remuneration and other terms of employment are specified in employment contracts. Remuneration includes salary, allowances and other non-monetary benefits. Long-term employee expenses include annual and long service leave, superannuation obligations and termination payments. Short-term benefits include motor vehicle and car parking fringe benefits in addition to any other short term benefits. Fringe benefits have been reported at the grossed up reportable fringe benefits amount. The Fringe Benefits Tax (FBT) year runs from 1 April to 31 March

each year, any FBT attributable to key management personnel is reported on that basis. Long term employee expenses include long service and superannuation obligations.

It should be noted that because annual and long service leave liabilities are calculated by discounting future cashflows (detailed in Note 5.2) which may change from year to year, it is possible for key personnel to accrue negative leave benefits in any particular financial year, or they may utilise more leave than they accrue in any particular financial year.

Acting Arrangements

When members of key management personnel are unable to fulfil their duties, consideration is given to appointing other members of senior staff to their position during their period of absence. Individuals are considered members of key management personnel when acting arrangements are for more than a period of one month.

(c) Related Party Transactions

There are no related party transactions requiring disclosure.

3.2 Depreciation and Amortisation

All applicable Non-financial assets having a limited useful life are systematically depreciated over their useful lives in a manner which reflects the consumption of their service potential. Depreciation is provided for on a straight line basis, using rates which are reviewed annually.

All intangible assets having a limited useful life are systematically amortised over their useful lives reflecting the pattern in which the asset's future economic benefits are expected to be consumed by the Office. Resolve, the Case Management System software, HPRM, the document and records management system, and the Office websites are amortised on a straight-line basis over 5 years.

(a) Depreciation

	Major Depreciation period	2022 \$'000	2021 \$'000
Leasehold improvements	14 years	46	36
Total		46	36

(b) Amortisation

	Major amortisation rate	2022 \$'000	2021 \$'000
Intangibles	10%	-	8
Total		-	8
Total depreciation and amortisation		46	44

3.3 Supplies and Consumables

	2022	2021
	\$'000	\$'000
Audit fees – financial audit	6	10
Lease expense	210	183
Consultants	105	46
Property services	52	55
Maintenance	3	3
Communications	21	24
Information technology	137	142
Travel and transport	22	22
Advertising and promotion	3	2
Other supplies and consumables	37	40
Total	596	527

External audit fees payable for the 2021-22 financial statements were \$6,080 (\$9,810 for 2020-21).

Lease expense includes lease rentals for short-term leases, lease of low value assets and variable lease payments.

3.4 Other Expenses

Expenses from activities other than those identified above are recognised in the Statement of Comprehensive Income when a decrease in future economic benefits related to a decrease in asset or an increase of a liability has arisen that can be measured reliably.

	2022	2021
	\$'000	\$'000
Salary on-costs	24	21
Service Level Agreement – Department of Justice	77	75
Other expenses	13	1
Total	114	97

Note 4 Assets

Assets are recognised in the Statement of Financial Position when it is probable that the future economic benefits will flow to the Office and the asset has a cost or value that can be measured reliably.

4.1 Receivables

The Office recognises receivables at amortised cost using the effective interest method. Any subsequent changes are recognised in the net result for the year when impaired, derecognised or through the amortisation process. The Office recognises an allowance for expected credit losses for all debt financial assets not held at fair value through profit and loss. The expected credit loss is based on the difference between the contractual cash flows and the cash flows that the entity expects to receive, discounted at the original effective interest rate.

For trade receivables, the Office applies a simplified approach in calculating expected credit losses. The Office recognises a loss allowance based on lifetime expected credit losses at each reporting date. The Office has established a provision matrix based on its historical credit loss experience for trade receivables, adjusted for forward-looking factors specific to the receivable.

	2022 \$'000	2021 \$'000
Sales of goods and services (inclusive of GST)	24	31
Tax assets	32	17
Total	56	48
Settled within 12 months	56	48
Total	56	48

For ageing analysis of the financial assets past due but not impaired, refer to Note 8.1.

4.2 Property, Plant and Equipment

(i) Valuation basis

All Non-current physical assets including any work in progress, are recorded at historic cost less accumulated depreciation. All assets within a class of assets are measured on the same basis.

Cost includes expenditure that is directly attributable to the acquisition of the asset. The costs of self-constructed assets includes the cost of materials and direct labour, any other costs directly attributable to bringing the asset to a working condition for its intended use, and the costs of dismantling and removing the items and restoring the site on which they are located.

When parts of an item of property, plant and equipment have different useful lives, they are accounted for as separate items (major components) of property, plant and equipment.

Fair value is based on the highest and best use of the asset. Unless there is an explicit Government policy to the contrary, the highest and best use of an asset is the current purpose for which the asset is being used or build occupied.

The recognised fair value of non-financial assets is classified according to the fair value hierarchy that reflects the significance of the inputs used in making these measurements.

Level 1 the fair value is calculated using quoted prices in active markets;

Level 2 the fair value is estimated using inputs other than quoted prices included in Level 1 that are observable for the asset or liability, either directly (as prices) or indirectly (derived from prices); and

Level 3 the fair value is estimated using inputs for the asset or liability that are not based on observable market data.

(ii) Subsequent costs

The cost of replacing part of an item of property, plant and equipment is recognised in the carrying amount of the item if it is probable that the future economic benefits embodied within the part will flow to the Office and its costs can be measured reliably. The carrying amount of the replaced part is derecognised. The costs of day-to-day servicing of property, plant and equipment are recognised in profit or loss as incurred. (iii) Asset recognition threshold

(iii) Asset recognition threshold

The asset capitalisation threshold adopted by the Office is:

Leasehold improvements \$10,000.

Assets valued at less than \$10,000 are charged to the Statement of Comprehensive Income in the year of purchase (other than where they form part of a group of similar items which are material in total).

(a) Carrying amount

	2022 \$'000	2021 \$'000
Leasehold Improvements		
At cost	756	587
Less: Accumulated depreciation	(216)	(170)
Total	540	417
Total property, plant and equipment	540	417

(b) Reconciliation of movements

	2022 \$'000	2021 \$'000
Carrying amount at 1 July	417	362
Additions	169	91
Depreciation	(46)	(36)
Carrying amount at 30 June	540	417

4.3 Other Assets

Other assets comprise of prepayments. Prepayments relate to actual transactions that are recorded at cost with the asset at balance date representing the un-utilised component of the prepayment.

	2022 \$'000	2021 \$'000
Other current assets		
Prepayments	27	26
Total	27	26
Utilised within 12 months	27	26
Total other assets	27	26

Note 5 Liabilities

Liabilities are recognised in the Statement of Financial Position when it is probable that an outflow of resources embodying economic benefits will result from the settlement of a present obligation and the amount at which the settlement will take place can be measured reliably.

5.1 Payables

Payables, including goods received and services incurred but not yet invoiced, are recognised at amortised cost, which due to the short settlement period, equates to face value, when the Office becomes obliged to make future payments as a result of a purchase of assets or services.

	2022 \$'000	2021 \$'000
Accrued expenses	7	10
Total	7	10
Settled within 12 months	7	10
Total	7	10

Settlement is usually made within 30 days.

5.2 Employee Liabilities

Key estimate and judgement

Liabilities for wages and salaries and annual leave are recognised when an employee becomes entitled to receive a benefit. Those liabilities expected to be realised within 12 months are measured as the amount expected to be paid.

Other employee entitlements are measured as the present value of the benefit at 30 June, where the impact of discounting is material, and at the amount expected to be paid if discounting is not material. The Office assumes that all staff annual leave balances less than 20 days will be settled within 12 months, and therefore valued at nominal value, and balances in excess of 20 days will be settled in greater than 12 months and therefore calculated at present value.

A liability for long service leave is recognised, and is measured as the present value of expected future payments to be made in respect of services provided by employees up to the reporting date. The Office makes a number of assumptions regarding the probability that staff who have accrued long service leave, but are ineligible to take it will remain with the Office long enough to take it. For those staff eligible to take their long service leave, the Office assumes that they will utilise it on average, evenly over the following ten years. All long service leave that will be settled within 12 months is calculated at nominal value and all long service leave that will be settled in greater than 12 months is calculated at present value.

	2022 \$'000	2021 \$'000
Accrued salaries	50	35
Annual leave	216	166
Long service leave	316	333
Total	582	534
Settled within 12 months	198	181
Settled in more than 12 months	384	353
Total	582	534

5.3 Superannuation

Defined contribution plans

A defined contribution plan is a post-employment benefit plan under which an entity pays fixed contributions into a separate entity and will have no legal or constructive obligation to pay further amounts. Obligations for contributions to defined contribution plans are recognised as an expense when they fall due.

Defined benefit plans

A defined benefit plan is a post-employment benefit plan other than a defined contribution plan.

The Office does not recognise a liability for the accruing superannuation benefits of Office employees. This liability is held centrally and is recognised within the Finance-General Division of the Department of Treasury and Finance.

Note 6 Commitments and Contingencies

6.1 Schedule of Commitments

Commitments represent those contractual arrangements entered by the Department that are not reflected in the Statement of Financial Position.

	2022 \$'000	2021 \$'000
By type		
<i>Lease Commitments</i>		
Short/Long-term and/or low-value leases	825	897
<i>Total lease commitments</i>	825	897
By maturity		
<i>Operating lease commitments</i>		
One year or less	334	225
From one to five years	491	672
More than five years	-	-
<i>Total operating lease commitments</i>	825	897
Total	825	897

The Operating Lease commitments include buildings, motor vehicles and information technology equipment leases. All amounts shown are inclusive of GST. The building lease agreement was signed by the Department of Treasury and Finance (Treasury) and payment arrangements for the Office to reimburse Treasury have been put in place.

The Office has entered into a number of operating lease agreements for property, plant and equipment, where the lessors effectively retain all the risks and benefits incidental to ownership of the items leased. Equal instalments of lease payments are charged to the Statement of Comprehensive Income over the lease term, as this is representative of the pattern of benefits to be derived from the leased property.

6.2 Contingent Assets and Liabilities

Contingent assets and liabilities are not recognised in the Statement of Financial Position due to uncertainty regarding any possible amount or timing of any possible underlying claim or obligation.

(a) Quantifiable contingencies

A quantifiable contingent asset is a possible asset that arises from past events and whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity.

A quantifiable contingent liability is a possible obligation that arises from past events and whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity; or a present obligation that arises from past events but is not recognised because it is not probable that an outflow of resources embodying economic benefits will be required to settle the obligation.

At 30 June 2022 the Office had no contingent assets or liabilities.

Note 7 Cash Flow Reconciliation

Cash means notes, coins, any deposits held at call with a bank or financial institution, as well as funds held in the Special Deposits and Trust Fund, being short term of three months or less and highly liquid. Deposits are recognised at amortised cost, being their face value.

7.1 Cash and Deposits

Cash and deposits include the balance of the Specific Purpose Accounts held by the Office and other cash held, excluding those accounts which are administered or held in a trustee capacity or agency arrangement.

	2022 \$'000	2021 \$'000
Special Deposits and Trust Fund balance		

S528 Office of the Ombudsman Operating Account	286	383
Total cash and deposits	286	383

7.2 Reconciliation of Net Result to Net Cash from Operating Activities

	2022 \$'000	2021 \$'000
Net result	(11)	167
Depreciation and Amortisation	46	44
Decrease (increase) in Receivables	(8)	(29)
Decrease (increase) in Prepayments	(1)	(8)
Increase (decrease) in Employee entitlements	50	(28)
Increase (decrease) in Payables	(3)	3
Net cash from (used by) operating activities	73	149

Note 8 Financial Instruments

8.1 Risk Exposures

(a) Risk management policies

The Office has exposure to the following risks from its use of financial instruments:

- credit risk; and
- liquidity risk.

The Head of Agency has overall responsibility for the establishment and oversight of the Office's risk management framework. Risk management policies are established to identify and analyse risks faced by the Office, to set appropriate risk limits and controls, and to monitor risks and adherence to limits.

(b) Credit risk exposures

Credit risk represents the loss that would be recognised if counterparties failed to perform as contracted. Exposure to credit risk is considered to be minimal.

Financial Instrument	Accounting and strategic policies (including recognition criteria and measurement basis)	Nature of underlying instrument (including significant terms and conditions affecting the amount. Timing and certainty of cash flows)
Financial Assets		
Receivables	Receivables are recognised at amortised cost, less any expected credit losses, however, due to the short settlement period, receivables are not discounted back to their present value.	It is Office policy to issue invoices with 30 day terms of trade.
Cash and deposits	Deposits are recognised at amortised cost, being their face value.	Cash means notes, coins, any deposits held at call with a bank or financial institution, as well as funds held in the Special Deposits and Trust Fund.

The Office does not have any concentration of credit risk. The Office monitors receivables on a monthly basis and follow up procedures are undertaken for all debts that are overdue. Action taken is dependent on the length of time the debt is overdue.

The carrying amount of financial assets recorded in the Financial Statements, net of any allowances for losses, represents the Office's maximum exposure to credit risk. The Office does not hold any collateral or other security over its receivables.

The Office extends 30 day credit terms for sundry receivables, and receives standard commercial credit terms for sundry creditors.

Except as detailed in the following table, the carrying amount of financial assets recorded in the Financial Statements, net of any allowances for losses, represents the Office's maximum exposure to credit risk without taking into account of any collateral or other security:

	2022 \$'000	2021 \$'000
Receivables	56	48
Total	56	48

Receivables age analysis - expected credit loss

The simplified approach to measuring expected credit losses is applied, which uses a lifetime expected loss allowance for all trade receivables.

The expected loss rates are based on historical observed loss rates adjusted for forward looking factors that will have an impact on the ability to settle the receivables. The loss allowance for trade debtors as at 30 June are as follows.

Expected credit loss analysis of receivables as at 30 June 2022

	Not past due	Past due 1-30 days	Past due 31-60 days	Past due 61-90 days	Total
	\$'000	\$'000	\$'000	\$'000	\$'000
Expected credit loss rate (A)	0%	0%	0%	0%	0%
Total gross carrying amount (B)	-	-	-	24	24
Expected credit loss (A x B)	-	-	-	-	-

Expected credit loss analysis of receivables as at 1 July 2021

	Not past due	Past due 1-30 days	Past due 31-60 days	Past due 61-90 days	Total
	\$'000	\$'000	\$'000	\$'000	\$'000
Expected credit loss rate (A)	0%	0%	0%	0%	0%
Total gross carrying amount (B)	8	-	-	24	31
Expected credit loss (A x B)	-	-	-	-	-

(c) Liquidity risk

Liquidity risk is the risk that the Office will not be able to meet its financial obligations as they fall due. The Office's approach to managing liquidity is to ensure that it will always have sufficient liquidity to meet its liabilities when they fall due.

Financial Instrument	Accounting and strategic policies (including recognition criteria and measurement basis)	Nature of underlying instrument (including significant terms and conditions affecting the amount. Timing and certainty of cash flows)
Financial Liabilities		
Payables	Payables are recognised at amortised cost, which due to the short settlement period, equates to face value, when the Office becomes obliged to make future payments as a result of a purchase of assets or services.	Payables, including goods received and services incurred but not yet invoiced arise when the Office becomes obliged to make future payments as a result of a purchase of assets or services. The Office's terms of trade are 30 days.

Monitoring of revenue and expenditure forecasts and current cash balances is undertaken by the Office on a monthly basis.

The following tables detail the undiscounted cash flows payable by the Office by remaining contractual maturity for its financial liabilities. It should be noted that as these are undiscounted, totals may not reconcile to the carrying amounts presented in the Statement of Financial Position:

2022

Maturity analysis for financial liabilities			
	1 Year	Undiscounted Total	Carrying Amount
	\$'000	\$'000	\$'000
Financial liabilities			
Payables	7	7	7
Total	7	7	7

2021

Maturity analysis for financial liabilities			
	1 Year	Undiscounted Total	Carrying Amount
	\$'000	\$'000	\$'000
Financial liabilities			
Payables	10	10	10
Total	10	10	10

8.2 Categories of Financial Assets and Liabilities

	2022	2021
	\$'000	\$'000
Financial assets		
Cash and cash equivalents	286	383
Receivables at Amortised cost	56	48
Total	342	431
Financial Liabilities		
Financial liabilities measured at amortised cost	7	10
Total	7	10

8.3 Comparison between Carrying Amount and Net Fair Values of Financial Assets and Liabilities

	Carrying Amount	Net Fair Value	Carrying Amount	Net Fair Value
	2022	2022	2021	2021
	\$'000	\$'000	\$'000	\$'000
Financial assets				
Cash in Special Deposits and Trust Fund	286	286	383	383
Receivables	56	56	48	48
Total financial assets	342	342	431	431
Financial liabilities				
Trade creditors	7	7	10	10
Total financial liabilities	7	7	10	10

The Office does not have any financial assets or financial liabilities carried at fair value through the profit and loss or any available for sale financial assets.

Note 9 Output Group Information

The Office of the Ombudsman and Health Complaints Commissioner is a single Output which is the fulfilment of the statutory responsibilities of the Ombudsman and Health Complaints Commissioner. The summary budgeted and actual revenues and expenses for this Output are the same as in the Statement of Comprehensive Income and the net assets are the same as the Statement of Financial Position. As a result the inclusion of a separate Output Schedule is not necessary.

Note 10 Events Occurring After Balance Date

There have been no events subsequent to balance date which would have a material effect on the Office's Financial Statements as at 30 June 2022.

Note 11 Significant Accounting Policies

11.1 Objectives and Funding

The Office of the Ombudsman and Health Complaints Commissioner (the Office) operates under the *Ombudsman Act 1978* and is responsible for the enquiry and investigation into complaints regarding the administrative actions of Tasmanian government agencies, local councils and a broad range of other public authorities. The Ombudsman also has a number of other responsibilities including being the Health Complaints Commissioner under the *Health Complaints Act 1995*, the Energy Ombudsman under the *Energy Ombudsman Act 1998*, the Coordinator of the Official Visitors Scheme under the *Corrections Act 1997*, the Principal Official Visitor under the *Mental Health Act 2013* and implementing the *Right to Information Act 2009*, the *Personal Information Protection Act 2004* and the *Public Interest Disclosures Act 2002*. The Office therefore also investigates complaints under these Acts.

By providing impartial investigations and seeking to resolve individual grievances, the Office aims to:

- promote fairness and equity;
- improve the quality of public administration; and
- improve health and energy services provided to the Tasmanian community.

The Custodial Inspector is appointed by the Governor of Tasmania under the *Custodial Inspector Act 2016*. The purpose of the Custodial Inspector is to provide independent, proactive, preventative and systemic oversight of custodial centres. The focus of the Inspector is on systemic issues relating to the management, control and security of the State's prisons and youth detention centre and the care and welfare of prisoners and detainees.

The Office activities are classified as controlled as they involve the use of assets, liabilities, revenues and expenses controlled or incurred by the Office in its own right.

The Office is predominantly funded through Parliamentary appropriations. The financial report encompasses all funds through which the Office controls resources to carry on its functions.

11.2 Basis of Accounting

The Financial Statements are a general purpose financial report and have been prepared in accordance with:

- Australian Accounting Standards (AAS) issued by the Australian Accounting Standards Board (AASB) and Interpretations; and
- The Treasurer's Instructions issued under the provisions of the *Financial Management Act 2016*.

The Financial Statements were signed by the Head of Agency and Business Manager on 7th October 2020.

Compliance with the AAS may not result in compliance with International Financial Reporting Standards (IFRS), as the AAS include requirements and options available to not-for-profit organisations that are inconsistent with IFRS. The Office is considered to be not-for-profit and has adopted some accounting policies under the AAS that do not comply with IFRS.

The Financial Statements have been prepared on an accrual basis and, except where stated, are in accordance with the historical cost convention.

The Financial Statements have been prepared as a going concern. The continued existence of the Office in its present form, undertaking its current activities, is dependent on Government policy and on continuing appropriations by Parliament for the Office's administration and activities.

11.3 Reporting Entity

The Financial Statements include all the controlled activities of the Office. The Financial Statements consolidate material transactions and balances of the Office.

11.4 Functional and Presentation Currency

These Financial Statements are presented in Australian dollars, which is the Office's functional currency.

11.5 Changes in Accounting Policies

(a) Impact of new and revised Accounting Standards

In the current year, the Office adopted all of the new and revised Standards and Interpretations issued by the Australian Accounting Standards Board that are relevant to its operations and effective for the current annual reporting period. New and revised Australian Accounting Standards, amendments thereof, and Interpretations effective for the current year that are relevant to the Fund include:

- AASB 2020-1 Amendments to Australian Accounting Standards – Classification of Liabilities as Current or Non-Current and AASB 2020-6 Amendments to Australian Accounting Standards – Classification of Liabilities as Current or Non-current – Deferral of Effective Date (effective for annual reporting periods beginning on or after 1 January 2022)
- AASB 2020-3 Amendments to Australian Accounting Standards – Annual Improvements 2018-2020 and Other Amendments (effective for annual reporting periods beginning on or after 1 January 2022)
- AASB 2020-8 Amendments to Australian Accounting Standards – Interest Rate Benchmark Reform – Phase 2
- AASB 2021-3 Amendments to Australian Accounting Standards – Covid-19-Related Rent Concessions beyond 30 June 2021.

(b) Impact of new and revised Accounting Standards yet to be applied

The Office has not applied a new Australian Accounting Standard or Interpretation that has been issued but is not yet effective. Those that have an impact on the Office's financial statements include:

- AASB 17 *Insurance Contracts* (as amended) (effective for annual reporting periods beginning on or after 1 January 2023)
- AASB 2020-1 Amendments to Australian Accounting Standards – Classification of Liabilities as Current or Non-current and AASB 2020-6 Amendments to Australian Accounting Standards – Classification of Liabilities as Current or Non-current – Deferral of Effective Date (effective for annual reporting periods beginning on or after 1 January 2023)
- AASB 2020-3 Amendments to Australian Accounting Standards – Annual improvements 2018-2020 and Other Amendments (effective for annual reporting periods beginning on or after 1 January 2022)
- AASB 2021-2 Amendments to Australian Accounting Standards – Disclosure of Accounting Policies and Definition of Accounting Estimates (effective for annual reporting periods beginning on or after 1 January 2023)
- AASB 2022-1 Amendments to Australian Accounting Standards – Initial Application of AASB 17 and AASB 9 – Comparative Information (effective for annual reporting periods beginning on or after 1 January 2023).

The Office has undertaken an assessment of the impact of new and revised Accounting Standards and those yet to be applied and has determined they will have no material impact on the Office's financial statements.

11.6 Foreign Currency

Transactions denominated in a foreign currency are converted at the exchange rate at the date of the transaction. Foreign currency receivables and payables are translated at the exchange rates current as at balance date.

11.7 Comparative Figures

Comparative figures have been adjusted to reflect any changes in accounting policy or the adoption of new standards. Details of the impact of changes in accounting policy on comparative figures are at Note 11.5.

Where amounts have been reclassified within the Financial Statements, the comparative statements have been restated.

11.8 Rounding

All amounts in the Financial Statements have been rounded to the nearest thousand dollars, unless otherwise stated. Where the result of expressing amounts to the nearest thousand dollars would result in an amount of zero, the financial statement will contain a note expressing the amount to the nearest whole dollar.

11.9 Office Taxation

The Office is exempt from all forms of taxation except Fringe Benefits Tax, and is not registered for the Goods and Services Tax. All taxation issues are managed by the Department of Justice on the Office's behalf.

11.10 Goods and Services Tax

Revenue, expenses and assets are recognised net of the amount of Goods and Services Tax, except where the GST incurred is not recoverable from the Australian Taxation Office. Receivables and payables are stated inclusive of GST. The net amount recoverable, or payable, to the ATO is recognised as an asset or liability within the Statement of Financial Position.

In the Statement of Cash Flows, the GST component of cash flows arising from operating, investing or financing activities which is recoverable from, or payable to, the Australian Taxation Office is, in accordance with the Australian Accounting Standards, classified as operating cash flows.

Appendix G – Independent Auditors Report

Independent Auditor's Report

To the Members of Parliament

Office of the Ombudsman and Health Complaints Commissioner

Report on the Audit of the Financial Statements

Opinion

I have audited the financial statements of the Office of the Ombudsman and Health Complaints Commissioner (the Office), which comprises the statement of financial position as at 30 June 2022 and statements of comprehensive income, changes in equity and cash flows for the year then ended, notes to the financial statements, including a summary of significant accounting policies, other explanatory notes and the statement of certification by the Ombudsman.

In my opinion, the accompanying financial statements:

- (a) present fairly, in all material respects, the Office's financial position as at 30 June 2022 and its financial performance and its cash flows for the year then ended
- (b) are in accordance with the *Financial Management Act 2016* and Australian Accounting Standards.

Basis for Opinion

I conducted the audit in accordance with Australian Auditing Standards. My responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Statements* section of my report. I am independent of the Office in accordance with the ethical requirements of the Accounting Professional and Ethical Standards Board's APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)* (the Code) that are relevant to my audit of the financial statements in Australia. I have also fulfilled my other ethical responsibilities in accordance with the Code.

The *Audit Act 2008* further promotes the independence of the Auditor-General. The Auditor-General is the auditor of all Tasmanian public sector entities and can only be removed by Parliament. The Auditor-General may conduct an audit in any way considered appropriate and is not subject to direction by any person about the way in which audit powers are to be exercised. The Auditor-General has for the purposes of conducting an audit, access to all documents and property and can report to Parliament matters which in the Auditor-General's opinion are significant.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

My audit is not designed to provide assurance on the accuracy and appropriateness of the budget information included in the Office's financial statements.

Responsibilities of the Ombudsman for the Financial Statements

The Ombudsman is responsible for the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards, and the financial reporting requirements of Section 42 (1) of the *Financial Management Act 2016*. This responsibility includes such internal control as determined necessary to enable the preparation of the financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Ombudsman is responsible for assessing the Office's ability to continue as a going concern unless the Office's operations will cease as a result of an administrative restructure. The assessment must disclose, as applicable, matters related to going concern and the appropriateness of using the going concern basis of accounting.

Auditor's Responsibilities for the Audit of the Financial Statements

My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the Australian Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements.

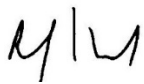
As part of an audit in accordance with the Australian Auditing Standards, I exercise professional judgement and maintain professional scepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Office's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Ombudsman
- Conclude on the appropriateness of the Ombudsman's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Office's ability to continue as a going concern. If I conclude that a material

uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusion is based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the Office to cease to continue as a going concern.

- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I communicate with the Ombudsman regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.



Rod Whitehead
Auditor-General
Tasmanian Audit Office

26 September 2022
Hobart