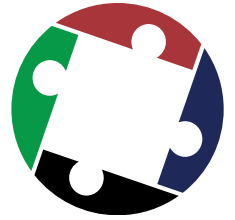


Ombudsman
Tasmania

Annual
Report
2023–24



Independence
Impartiality
Fairness
Respect



Ombudsman
Tasmania

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 2023–2024.

Yours sincerely

Richard Connock

OMBUDSMAN
14 October 2024

Contents

Acknowledgement of Country	3
From the Ombudsman	4
Our people and workplace	7
Our role	11
Topical issues	16
<i>Ombudsman Act 1978</i>	20
Other legislation	36
Inspections under police legislation	40
<i>Right to Information Act 2009</i>	44
<i>Energy Ombudsman Act 1998</i>	55
Official Visitor Programs	62
Financial Statements	65

Ombudsman Tasmania
6/86 Collins Street Hobart
1800 001 170
www.ombudsman.tas.gov.au

Media enquiries
ombudsman@ombudsman.tas.gov.au

ISSN 1441-4295 (Print)
ISSN 2209-8399 (Online)



Acknowledgement of Country

In recognition of the deep history and culture of this Island, we would like to pay our respects to all Tasmanian Aboriginal people, the past and present Custodians of the Land.

Section 1

From the Ombudsman



This reporting year has been another eventful and busy one. It has also been a busy year for recruitment with a number of permanent and fixed term positions being filled. I refer to this later in this report but there have been a number of senior appointments, including a new Manager – Official Visitors, the newly created position of Director, Office of the Tasmanian Preventive Mechanism and the process has been well under way for the appointment of a new Principal Officer – Health Complaints. Suffice to say, the additional staff have made a significant difference to the way we do our work and have made it possible to do a little more than our core work.

As I have noted in previous annual reports, and cannot say often enough, without the dedication, commitment and professionalism of all staff members, this office would not be able to perform to the high level that it does – in all the jurisdictions it administers – or carry out its functions as well as it does.

Those functions cover a number of jurisdictions and the office provides a range of services to the community. In addition to being the Parliamentary Ombudsman, I am also the:

- Health Complaints Commissioner;
- Energy Ombudsman;
- de facto Tasmanian Information and Privacy Commissioner;
- Tasmanian Custodial Inspector; and
- Tasmania's National Preventive Mechanism (NPM) for the purposes of the United Nations Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

“

Without the dedication, commitment and professionalism of all staff members, this office would not be able to perform to the high level that it does.

In relation to the latter, 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 approached.

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

As Health Complaints Commissioner, I am also required by the *Health Complaints Act 1995* to report separately. The Health Complaints Commissioner's Annual Report will be found on the website www.healthcomplaints.tas.gov.au. I am not required to produce a separate report under the *Energy Ombudsman Act 1998*. I therefore include information about that role 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 Visitors Scheme;
- I am also 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*; and
- I am required by section 20F(1) of the *Police Offences Act 1935* to review, within four years of its commencement, the operation of Division 111 of that Act which contains provisions concerning consorting (that review has now been completed and I make reference to it later in this report).

I continue to meet regularly with my counterparts in other jurisdictions. During the reporting year I attended meetings with:

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

I refer later in this report to our current Strategic Plan as it applies to the work of the office, but it also seeks to review all the various pieces of legislation we use, such as the *Right to Information Act 2009*, the *Health Complaints Act 1995*, the *Public Interest Disclosures Act 2002* and the *Personal Information Protection Act 2004*. To assist with this, an expert consultant has been retained, the review has commenced, and will conclude in the next reporting year.

Section 2

Our people and workplace



Our people

The office has a number of discrete teams including Ombudsman, Energy Ombudsman, Right to Information, Official Visitors, Custodial Inspector, Tasmanian National Preventative Mechanism, Health Complaints and Corporate Administration. We work under a range of statutes and the subject matter of our work is diverse.

We have 34 people who work in the office, with a few vacant positions, amounting to 29.75 full-time equivalents. This includes our administrative staff. We have a broad age range from 30s to 60s with 23 females and eleven males, including the Ombudsman and Deputy Ombudsman. Many of our staff have legal backgrounds but we have a wide range of other backgrounds including policing, public health, criminology, science and sociology. Our managers are Band 8 under the State Service Award, Senior Investigation/Review/Inspection Officers are Band 6, Investigation/Review Officers are Band 5, Intake officers are Band 4 and administrative staff vary from Band 3 to Band 7.

The office

We are based in the centre of Hobart and are housed in a multistorey office building over two floors. We have a flexible workplace that allows some working from home when organisationally appropriate and requested by staff members, and we use a flex-time model. Many of our staff work part-time and we endeavour to accommodate the needs of our people as best we can. We are also an inclusive workplace and keep up to date with training on LGBTIQ+ issues, child-safe practices, trauma-informed approaches and other important issues. Although we have several separate teams and we often deal with challenging subject matter, the office is a friendly and collegial place to work with lots of interaction between different team members.

Strategic planning

Our current strategic plan is for the period 2022–2025. The whole office is working towards ensuring all Tasmanians receive safe and high-quality healthcare, ensuring excellence in public administration, resolving customers' issues with energy providers, and providing external oversight of the prison and youth justice systems. Each of the separate teams concentrates on a particular area but the focus is a united one, and that focus is best practice and accountability.

Our core values are to conduct our work with:

- independence;
- impartiality;
- fairness; and
- respect.

Over the next year, we will continue to seek systemic improvements in the administration of government, health care, water and energy services, and prison and youth detention services by:

- strengthening relationships with key government stakeholders;
- reviewing deficient legislation;
- drafting and publishing meaningful reports;
- proactively engaging with media on public issues; and
- continuing to advocate for resources in key areas.

We will continue to review and strengthen the internal mechanisms and operations of the office as a whole, working as a team to maximise efficiency and share resources. A new strategic plan will be developed in 2025.

The office at a glance 2024-25



34
Staff



7
Jurisdictions



6
Permanent
positions including
promotions recruited



5
Fixed term
positions
recruited



67 %
Female



33 %
Male



1
Ombudsman
and one Deputy

4.8
Principal
Officers

6.2
Senior Investigation
Review/Inspection/
Conciliation Officers

5.6
Investigation
Review/Research
Officers

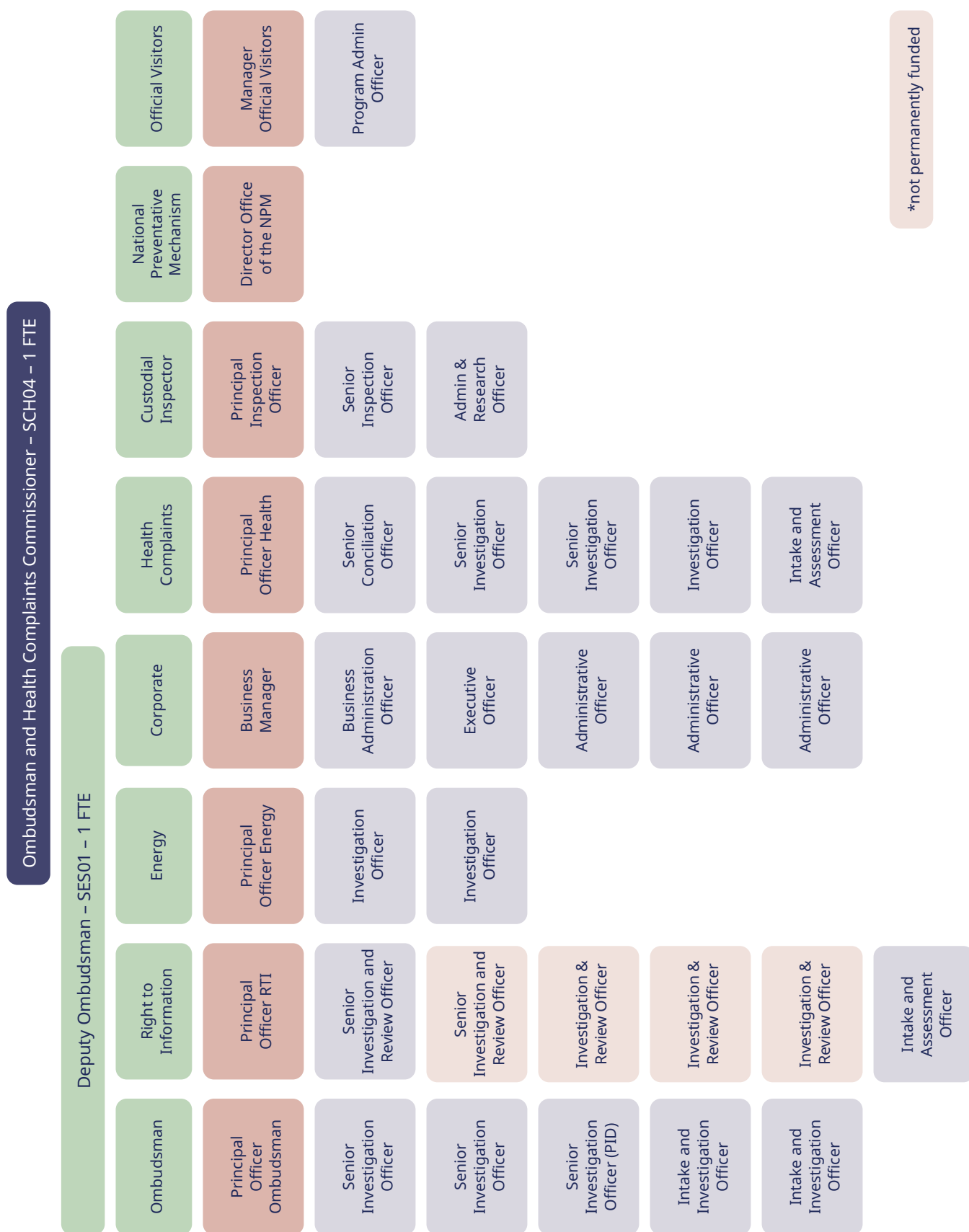
4
Intake
Officers

5
Corporate
administration
staff

1
Director
NPM

1.2
Manager
Official Visitors and one Program
Administrator Officer

Organisation chart



Section 3

Our role



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

The primary role of the Ombudsman and my 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 (GBEs). 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 their complaint directly with the authority. The great majority of matters are resolved by way of preliminary inquiries made pursuant to section 20A of the Act and involve a cooperative 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, among 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 relies 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 section 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 Office of the Custodial Inspector focusses on systemic issues relating to the care and welfare of people in custody and the management and security of Tasmania’s prisons and youth detention centre.

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.

Because water and sewerage corporations are constituted or established by or under an Act for a public purpose, they also come within the Ombudsman’s general jurisdiction.

Police compliance audits

My office has 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 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*.

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 the Ombudsman's 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

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

- facilitate visits by the United Nations Subcommittee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to places within Australia's jurisdiction where persons are or may be deprived of their liberty; and

“

In most cases, we are able to advise a complainant of the best place to have their complaint dealt with.

- establish a National Preventative Mechanism (NPM) to undertake the monitoring of all places where people are deprived of their liberty in order to prevent torture and other ill treatment.

In Australia, each state and territory has responsibility for establishing its own NPM and the Commonwealth has appointed the Commonwealth Ombudsman to act as the national coordinator. The *OPCAT Implementation Act 2021* was passed by the Tasmanian Parliament and received Royal Assent on 29 November 2021. The Act establishes an NPM for Tasmania as a new, permanent monitoring body to undertake regular, unannounced inspections of places of detention in order to strengthen protections 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.

It is important to note that the NPM is an independent entity which complements 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 NPMs must be operationally and financially independent.

As I also reported last year, I sought and received funding to conduct an OPCAT Implementation Project. This funding covered the engagement of a fixed-term Band 7 Project Manager who was appointed in September 2022, assisted by the Principal Inspection Officer, and the engagement of a number of expert consultants. The project undertook a detailed scoping process in order to provide Government with an accurate estimate of the resourcing and other requirements needed to make Tasmania compliant with its OPCAT responsibilities.

As a result of the work done to date, the core facilities that the Tasmanian NPM is required to visit have been identified as:

- custodial and youth justice facilities;
- police and court cells (and transport);
- mental health facilities;
- health and social care settings (including hospitals, aged and disability care);
- education facilities, particularly where restrictive practices are or may be used; and
- out-of-home care and related places which a child or young person may be unable to freely leave (such as care provided under a special care package).

On 1 December 2023 I published my implementation program report, *Preventing Torture and Ill Treatment in Tasmania* and delivered it to Government. This included recommendations for the NPM's organisational design and the development of strategic goals. The report can be accessed at: npm.tas.gov.au

Regrettably I have received no response to that report or its recommendations. A further report relating to the implementation of OPCAT in residential aged care and disability support settings is due to be published in the second half of 2024.

Also during this reporting year we hosted a highly successful and well attended OPCAT Symposium, organised largely by the Project Manager with assistance from the Principal Inspection Officer and staff of the Office of the Custodial Inspector. Delegates from across the country attended and the feedback from all attendees was extremely positive.

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. Annual reports of the NPM are 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.

Section 4

Topical issues



Children and young people

The Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings completed its work in late 2023 making many recommendations, some of which were directly relevant to this office. The Commission has rightly facilitated a focus in Tasmania on the wellbeing and rights of children and young people and it has caused the office to review its internal policies and approach to interacting with children.

All staff undertook the Australian Childhood Foundation's "Safeguarding Children" online training, the former Commonwealth Commissioner for Children, Megan Mitchell, was retained to assist with the development of a Child Safeguarding Policy Framework across the office and we continue to train staff in trauma-informed approaches to work and to assist them in recognising vicarious trauma in themselves.

We have been receiving a higher number of complaints from young people detained at Ashley Youth Detention Centre (AYDC) over the last two years, quite probably due to the publicity caused by the Commission and greater awareness by young people in detention of the complaint options available. In the two years prior to 2022-2023 complaints from AYDC were in single figures but in 2022-23 there were 42 and in 2023-24 there were 45. The subject matter covered a number of standard issues such as use of force, being locked in rooms for extended periods, centre rules and interactions with staff members. It is heartening that young people are making use of the office to raise concerns about their time in AYDC and we hope to maintain their awareness of the office with regular visits to AYDC by Ombudsman team members.

Tasmania Prison Service

Complaints from people in custody continue to be one of our key areas of work, with people in custody able to contact us by a direct telephone line and in writing. The Tasmania Prison Service has continued to have challenges with optimum staffing levels and consequently, the office has received a large number of complaints about lockdowns due to staffing shortages. There is little that our office can do about lockdowns other than comment in a publication such as this on how unacceptable extended lockdowns are and note the detrimental effect they have on people in custody. As well as adversely affecting the mental wellbeing of people in custody, extended and repeated lockdowns have a negative impact on access to education, therapeutic and medical appointments and physical exercise. It is essential to address the issue of ongoing lockdowns.

TasWater

A number of complaints were received during the reporting year as a result of TasWater conducting an audit of properties and identifying a number which had been charged as single dwellings but which are in fact multiple dwellings i.e. that have multiple flats, a house and a separate self-contained unit or other variants of multiple dwellings. We had an increased number of people complaining that their service charges for sewerage had gone up because they were now being charged for more equivalent tenements than they had historically. TasWater estimates the sewage load that properties place on the network by using an Equivalent Tenement model to calculate sewerage prices. Sewerage is not metered. In most cases TasWater had complied with its own policies and the charges were authorised by the Price and Service Plan 4. Charges were not backdated, although most properties should have been previously charged, and we found that there was no defective administrative action.

Social housing

We have commented on the availability of social housing in the last three annual reports and we continue to receive complaints from people who have been on the waiting list for social housing for extended periods and are either at risk of homelessness or are homeless. With private rental costs having risen considerably as well as a shortage of properties, there are very few options for people on low incomes. This has been an ongoing issue now for a number of years and is a result of a limited pool of social housing stock. People come to the Ombudsman as a last resort hoping that we can assist but unfortunately, if there are no houses available and proper processes have been followed, we are unable to help. Our staff hear some tragic stories from people who are desperate to have stable accommodation and we have to explain that the assistance we can offer is often limited to checking that proper processes are being followed.

University of Tasmania

We have noticed an increase in the number of complaints throughout the year from students about not being deemed eligible for refunds when they withdraw from a course for various reasons, as well as general complaints about withdrawal from courses. The Commonwealth Government has decided to create a National Student Ombudsman scheme (NSO) which should be legislated in 2025. It is not completely clear how broad the jurisdiction of that body will be, but it seems likely that most student complaints about the University of Tasmania will eventually be dealt with by the NSO.

Right to Information issues

Delays and backlogs remain the significant issue in the right to information scheme and in external review requests and enquiries to my office. Under resourcing of

Right to Information (RTI) and skills gaps (often due to lack of access to training) in delegates working at public authorities are having a major negative impact on the RTI scheme. Complaints about delays in people accessing their own information from the Department for Education, Children and Young People and the Department of Health continue in their frequency, a concern I noted in my previous annual report. I urge the Tasmanian Government to ensure the recommendations of the *Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings* regarding improving RTI are fully implemented. Tasmanians want, and deserve, an accountable and open government and a seeming lack of motivation to improve the RTI system is hindering that being achieved.

The historical backlog of external review applications awaiting finalisation remains an issue and I acknowledge and again express my regret in relation to this. It remains a barrier to timely review and detrimentally impacts the RTI scheme. We have, however, made substantial progress to clear this backlog over the 2023-24 period, and delays have been markedly reduced. Open external reviews are at their lowest numbers since the 2018-19 financial year and average days open fell by 49% over the financial year, which illustrates a major reduction in delays to applicants.

The issue of limited training opportunities for RTI decision makers, particularly new delegates, remains ongoing. Unfortunately, the rollout of training for delegates planned by the Right to Information Uplift Project run by the Department of Premier and Cabinet has not occurred in the 2023-24 financial year. I sought additional funding to expand my ability to conduct training and to respond to the Commission of Inquiry's recommendations, but a response has not been provided due to the delayed

budget process following the proroguing of Parliament in February 2024. I have continued to run a limited training program and provide guidance in an ad hoc fashion, while dedicating the majority of my limited resources to the reduction of the backlog in external review requests.

Embedded Networks

Given the vulnerable nature of tenancy arrangements and the legislative framework currently operating in Tasmania, I have received a number of complaints in the Energy jurisdiction regarding embedded networks that have been difficult to resolve.

An embedded network, such as at a retirement village, caravan park or shopping centre, is where electrical infrastructure is configured in a way to enable the owner of a site to sell energy to the tenants or residents based there. The site owner usually buys electricity in bulk to a “parent meter” and then on-sells it to the individual residents. The site owner is responsible for the network to the “child meters” past the point of supply.

Currently, the operation of the *National Energy Retail Law (Tasmania) Act 2012* means that the residents of embedded networks have limited consumer protections around the on-selling of this electricity. The situation is especially concerning when residents are not able to choose a different retailer due to the physical wiring of the site. Some common concerns raised in complaints regarding embedded networks include price increases, access to concessions and grants, shared metering, lack of information and dispute resolution options. It appears that legislative change is needed to ensure residents of embedded networks in Tasmania are afforded the same rights and protections as those in embedded networks in other parts of the National Energy Market.



Section 5

Ombudsman Act 1978

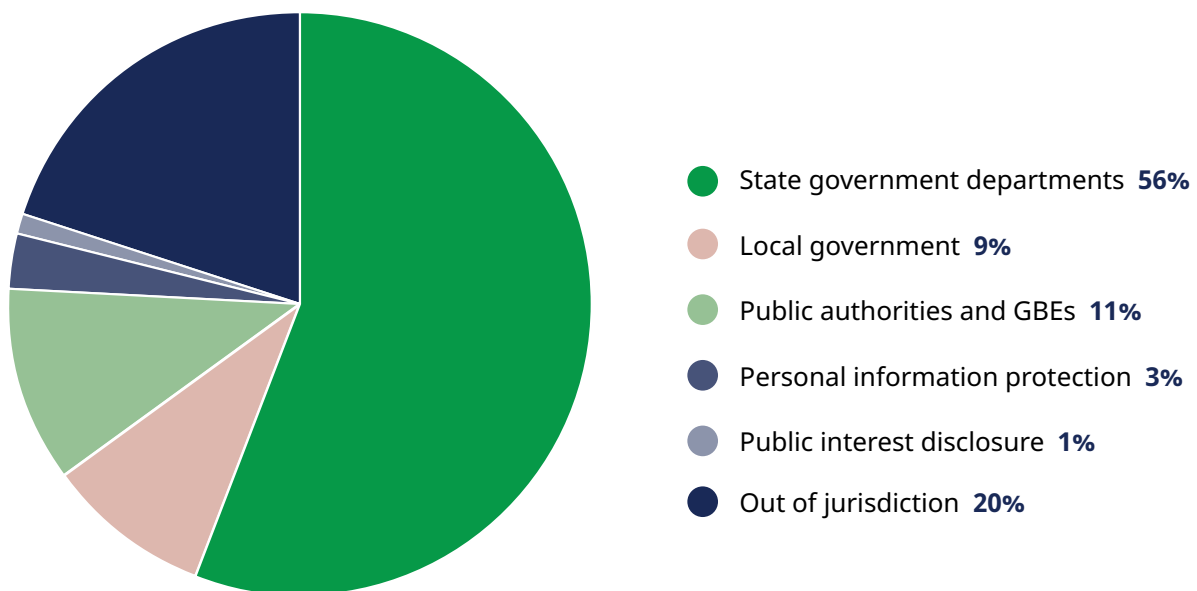


Complaints and enquiries

Table 1 – Breakdown of number of complaints received including percentages

Agency	2022-23	2022-23 (%)	2023-24	2023-24 (%)
State government departments	415	55%	386	56%
Local government	74	10%	63	9%
Public authorities and GBEs	71	9%	76	11%
Out of jurisdiction	167	22%	135	20%
Personal information protection	19	3%	21	3%
Public interest disclosure	10	1%	10	1%
Total	756	100%	691	100%

Figure 1 – Who is being complained about?



A sample of the wide variety of complaints we deal with

My office continues to receive a wide variety of complaints and enquiries relating to the administrative actions of Tasmanian public authorities.

The Ombudsman team has continued with its ongoing project to contact and work directly with public authorities to improve how we communicate requests for information, and also to provide guidance to public authorities about how best to respond to such requests. As part of this project the Ombudsman team has met with representatives from the Department for Education, Children and Young People, the Commissioner for Children and Young People (Tas), social housing providers, the Tasmania Prison Service and Ashley Youth Detention Centre. The benefits from developing these relationships is evident and it will continue to be a focus for the upcoming financial year.

The Ombudsman team maintains that an ongoing part of its role is to ensure that complaints that do not come within its jurisdiction are correctly referred to bodies or service providers that can assist. This work is evident in the high number of Out of Jurisdiction enquiries received. Requests for assistance can range from complaints about private businesses to Commonwealth or interstate matters.

The 2023–24 financial year has again shown the importance of the prison telephone service that allows people in custody to call and raise concerns directly with investigation officers. People in custody have continued to access this service and have raised serious issues relating to personal searches, dietary and allergy issues and safety concerns.

“

The Ombudsman team maintains that an ongoing part of its role is to ensure that complaints that do not come within its jurisdiction are correctly referred to bodies or service providers that can assist.

The Ombudsman team has addressed complaints about all manner of Tasmanian government agencies. These complaints have spanned concerns about international students within Tasmanian schools, restrictions imposed on drivers licences and the provision of registrations and professional occupational licences.

The Ombudsman team also continues to receive various complaints relating to the services provided by local government. These have included, amongst many other issues, the management of neighbourhood nuisances and the provision of green waste collection services.

The Ombudsman team has received enquiries and complaints relating to a number of public authorities, GBEs, and other authorities such as the University of Tasmania, the Retirement Benefit Funds Board and TasWater.

Agency complaint analysis

Table 2 – Summary of complaints against state government

Department	Received 2022–23	Closed 2022–23	Received 2023–24	Closed 2023–24
Communities	38	46	-	-
Education	57	39	-	-
Education, Children and Young People	-	-	82	93
Health	7	9	8	7
Homes Tasmania	1	1	39	29
Housing Authority	44	40	38	32
Justice	166	178	158	152
Natural Resources and Environment	16	14	6	10
Ombudsman and Health Complaints Commissioner	2	2	2	2
Police, Fire and Emergency Management	38	39	20	26
Premier and Cabinet	11	12	7	8
State Growth	16	16	15	19
Tasmanian Health Service (THS)	8	9	2	5
Treasury and Finance	11	12	9	10
Tasmanian Audit Office	1	1	-	-
Service Tasmania	-	-	-	1
Total	416	418	386	394

Note: The Department of Education and the Department of Communities merged on 1 October 2022 to become the new Department for Education, Children and Young People. Homes Tasmania commenced operation on 1 December 2022.

Table 3 – Summary of outcomes of complaints against state government, 2023–24

Department	Declined, referred, withdrawn or OOJ	Discontinued	No defective administration	Partly or fully substantiated	Determination made
Communities	0	0	1	0	0
Education	15	3	31	41	2
Health	2	1	2	2	0
Homes Tasmania	5	1	19	4	0
Housing Authority	13	0	16	3	0
Justice	75	1	36	40	0
Natural Resources and Environment	3	2	1	4	0
Ombudsman	0	0	2	0	0
DPFEM	14	0	6	6	0
Premier and Cabinet	3	0	2	3	0
State Growth	2	1	12	4	0
THS	1	2	1	1	0
Treasury	6	0	4	0	0
Audit Office	-	-	-	-	0
Treasury		1	0	0	0
Total	139	12	134	108	2

Note: The Department of Education and the Department of Communities merged on 1 October 2022 to become the new Department for Education, Children and Young People.

Most common issues

Complaint objectives



231

Explanation

153

Register concern

145

Financial correction

209

Other objective

Issues with prisons



17

Administration

20

Classification/
placement

18

Failure to ensure
physical safety

45

Officer misconduct

Issues against councils



31

Administration and general management of councils

11

Rates and charges

17

Planning

10

Nuisance

Issues against DECYP



14

Allegations of sexual abuse/
harassment/
discrimination/
racism/
bullying/assault

9

Access to educational and other services

4

Administration

3

Duty of care

Summary of complaints and enquiries

Table 4 – Enquiry activity – Ombudsman Tasmania

Enquiries	2022-23	2023-24	Variance
Enquiries opened and closed in the period	631	612	-3%
Out of jurisdiction (OOJ) enquiries	487	509	4%
Total	1118	1121	0.3%

Table 5 – Complaint activity – Ombudsman Tasmania

Complaints	2022-23	2023-24	Variance
Opened in period	756	691	-9%
Closed in period	769	708	-9%

*Includes Personal information protection (PIP) matters and public interest disclosures (PID) cases

Table 6 – Summary of complaints outcomes

Outcome	2022-23	2023-24	Variance
Discontinued	12	14	14%
No defective administration	243	203	-20%
Fully or partially substantiated or determination made	81	146	45%
Declined, referred, out of jurisdiction or withdrawn	400	314	-27%
Total	736	677	-9%

*Excludes PID and PIP cases

Table 7 – Summary of out of jurisdiction complaints

	2022-23	2023-24	Variance
Received in period	186	145	-9%
Closed in period	189	145	-9%

Table 8 – Time taken to resolve complaints

Timeframe	Number	%
1 to 6 months	266	38%
1 Week or under	277	39%
8 to 30 days	108	15%
More than 6 months	57	8%

*Includes PID and PIP

Case summaries

Department for Education, Children and Young People

Enrolment of children at new school – September 2023

A complaint was received about the Department for Education, Children and Young People (Department), concerning the enrolment of the complainant's children at a new school against the complainant's wishes. The reason provided to the complainant was that their behaviour posed a risk to the health and safety of persons at the school.

Use of mobile phones by students at school policy

Inquiries undertaken by my office determined the children had been attending their current school as out of area students since the eldest commenced schooling. The complainant had lodged a number of complaints with the Department since 2017. The substantive complaint which led to a breakdown of the relationship between the school and the complainant related to the wearing of smart watches. The policy provides that smart watches must be set to aeroplane mode or placed in bags during the school day. Under the policy, a smart watch with call and message functionality is considered a phone and cannot be used at school without an exemption. Exemptions can be requested for students in certain circumstances, and the complainant requested an exemption for the children due to their additional needs and the school's capacity to appropriately handle issues when they arose. It was the complainant's preference to de-escalate situations when the children contacted them using the smart phone SOS function. The children's safety while at school was also noted to be a concern, after one of the children had left the school grounds and could not be located for some time.

The request for an exemption was rejected by the Department on the basis the smartwatches had previously caused significant disruption to classes when activated, and due to the behaviour of the complainant when answering the children's calls. The Department took into account medical information pertaining to the children, the privacy of other students and staff, the potential for complaints and industrial action, and its duty to provide a safe workplace and safe learning environment. My team reviewed information provided by the Department and Tasmania Police pertaining to incidents between the school, the complainant and the children, relevant to the wearing of smartwatches. My team considered the exemption issue from both a duty of care and risk management perspective in accordance with the Department's *Risk Management Policy* which promotes a low tolerance toward risk and a proactive culture of identifying and managing risk. The Department had purchased identical smartwatches for the children to wear at school. The SOS function was set to call senior staff instead of the complainant, and a GPS function could track the child's location. The complainant declined this offer and advised that the policy was not accepted. My team was satisfied the decision to not approve an exemption was reasonably open, given the Department's high duty of care to all members of the school community. My team was also satisfied with the steps taken by the Department to provide a reasonable solution consistent with this duty of care.

Trespass Notice

The school issued the complainant with a trespass notice pursuant to section 136 of the *Education Act 2016* (Education Act), indicating the School Principal was removing the complainant from the school based on their opinion that the complainant had behaved unacceptably within

the meaning of the Department's *Respectful School, Volunteer and Behaviour Policy*. Particulars supporting the claims were set out in writing to the complainant. Communication by email, phone and the online app Seesaw was permitted, as were face to face meetings at the offices of Learning Services, a division of the Department. A Duty Teacher was arranged to assist the youngest child to and from class each day. Reasons for the decision outlined met the excluded behaviours set out in the policy. Reasonable steps to ensure the children could continue attending school and the complainant could communicate with the school about the children's health, needs, and education were provided. After reviewing records pertaining to incidents at the school, my team determined that the school's action of issuing a Trespass Notice was reasonable in the circumstances and consistent with both legislation and policy.

There was, however, a failure to advise the complainant as to how they could appeal this decision. Trespass notices are excluded from the Department's general complaint review and mediation processes, and individuals need to seek their own independent advice and remedy through the Magistrates Court. It was also identified that the Department's online information did not specify in which Court an appeal could be lodged. My team suggested the Department rectify this. There was also a failure to inform the complainant of the process for resetting the relationship after the exclusion period ended. The *Respectful School Visitor and Volunteer Behaviour Procedure* requires this. My office considers this an important procedural step as it explains what will happen at the end of the exclusion period and supports accountability and transparency.

School transfer

The Department proposed to transfer the children's enrolment to another school. My team was satisfied the Department had authority to make such a decision under section 137 of the Education Act and *Secretary's Instruction No.10, For the Transfer of a State School Student*. Section 3.2 of Secretary's Instruction 10 provides that the Deputy Secretary Learning may transfer a student from the state school in which they are currently enrolled to another state school, where the Deputy Secretary forms the opinion that the parent of a student at a state school poses a risk to the health and safety of persons at that school and risk management strategies implemented have not eliminated or ameliorated these health and safety risks. Records and information provided in response to my team's inquiries supported a conclusion that the Department's decision to transfer the children to a new school had been reasonably open to it and consistent with policy.

Reasons for the decision were provided in writing and the complainant's views were sought. The timeframe provided to respond at first instance was unsatisfactory, however, given the history and complexity of the matter. The Department provided an extension of time when one was requested. Its requests to discuss the transfer with the complainant were declined. The Department indicated it would provide the children with a new uniform and implement a transition strategy to ensure the move was successful. This included meeting the Principal, orientation visits, and behaviour support and communication plans. Specific Learning Services Staff were nominated to provide additional support. There was a failure to identify and advise of particular supports that would be available to the children at the new school. My office is of the view this would have been a matter of importance to the complainant, and feedback was provided to the Department accordingly.

The complainant alleged risk to the children from other persons if they attended the school proposed. Evidence establishing risk was not provided by the complainant, and my team's inquiries with Tasmania Police and Child Safety Services did not identify any relevant safety concerns. Because the children had not attended school for some time, and the complainant did

not accept the proposed enrolment, a Compulsory Conciliation Conference was arranged by the Office of the Education Registrar (OER). As a result, the Registrar required the complainant to ensure the children were enrolled in any Tasmanian School by Term 1.

There is no mechanism in the Education Act for appealing the issuing of requirements or their contents. The complainant refused to sign the requirements, but this does not affect their validity. The decision of the Registrar was supported by section 16 of the Education Act which provides that a parent of a school aged child must ensure that child attends school each day, receives home schooling or participates in an individual education program. My office suggested to the Department that it could have been more flexible in providing options in the first instance, rather than nominating one particular school.

Outcome

After taking into account the responses provided by the Department, Tasmania Police, and OER, my team determined further investigation of the complaint was unwarranted. No significant defective administration was identified, but some poor administrative practice. This was raised with the Department to assist it to improve, and to prevent similar issues arising in future.

Ashley Youth Detention Centre Search Register – November 2023

A complaint was received from a young person concerning two partially clothed searches they had been subjected to while at the Ashley Youth Detention Centre (AYDC). The complaint raised concerns about the basis for the searches; one that was conducted upon admission, and the other in conjunction with a search of the young person's room.

Inquiries undertaken by my office determined that insufficient search records were available, and that search records kept generally by AYDC are unsatisfactory. The information being documented is not consistent with the principles of the *Youth Justice Act 1997* (YJA), or the Personal Searches of Young People detained at AYDC procedure (the procedure), which sets out how searches should be conducted. There were insufficient records to determine whether it had been reasonable for AYDC to search the young person on each occasion, or whether it followed policy, legislation and best practice. My team advised the Department that we consider AYDC's failure to keep fulsome records of any exercise of its search powers to be a grave example of defective administration.

Section 25K of the YJA requires the Department to maintain a search register containing relevant information in relation to each search of a young person it conducts. The register must be made available for inspection by persons and bodies including the Ombudsman. My office is satisfied AYDC is maintaining a search register, but insufficient information is being recorded, and the records may not speak for themselves when reviewed at a later date.

The Department advised that AYDC does not keep any other relevant records in relation to searches of young people and did not concede the limited records in this instance to be the result of any oversight. This is not to say that the searches were not lawfully and reasonably conducted, rather, there had been a failure by AYDC to demonstrate this in its record keeping. It is important for AYDC to record this information to protect young people from inappropriate searches and to demonstrate compliance with the YJA and the procedure.

There was a failure by AYDC to acknowledge that any poor administration had occurred when responding to the young person's complaint. It was suggested in the formal response letter that AYDC could not provide more details about the young person's searches because the young person did not provide enough information on the complaint form submitted, and the search occurred too long ago for this information to exist. My team do not consider the information provided to the young person in that letter to be accurate or reasonable.

My team suggested the Department immediately conduct a full review of the relevant provisions of the YJA and its procedure, to identify information which should be recorded in the search register and any actions to be undertaken. Suggestions for improved practice were provided, including examples of the type of information that we consider should be maintained on the search register. Changes to AYDC's complaint handling practices were also suggested.

Department's response

The Department advised it is reviewing the procedure which will incorporate a review of the search register to ensure alignment with the YJA, and address record keeping deficiencies in the existing register, taking into account my suggestions. The procedure will be supported by the development of communication materials to aid young people's understanding of the search process, their rights and how to complain.

An agency-wide review of complaints processes is also being undertaken to support a consistent approach. This will incorporate investigation processes and reporting, and ensure complaints are acknowledged, investigated and responded to in a timely manner. Updated policy relevant to the complaint issues raised will be provided to my office in due course.

Outcome

My office has determined not to investigate the complaint as the Department had taken steps to address the defective administration identified. We will continue to monitor the Department's progress and review the updated policies and search register when completed.

Ashley Youth Detention Centre – Mobile Phone Use – May 2024

A complaint was received from a young person in the Ashley Youth Detention Centre (AYDC) alleging that they had been filmed on a mobile phone by a staff member during an incident.

It was identified as a result of the complaint that AYDC's *Prohibited and Unauthorised Items Procedure* (procedure) outlines the staff positions which are authorised to have a mobile phone on-site, but does not cover permitted and prohibited use, storage, or direction for staff on videoing and photography.

Inquiries undertaken by my office confirmed that the relevant phone was a work phone issued to an authorised staff member. The Department provided information that the phone was used to record an incident for approximately one minute for reasons of safety and security after a CCTV camera had been damaged during the incident. The footage was then used to inform a discussion with Police and senior staff concerning how to best handle the unfolding situation.

A failure to upload the footage to AYDC's computer system before it was deleted was also identified.

Outcome

The Department acknowledged the absence of appropriate policy in this area and agreed to revise the procedure accordingly. As the footage is a record, it should have been saved with other information about the incident. A suggestion was made that should this occur in future, that the requirement to save the footage is addressed in the procedure.

After taking into account the response provided by the Department, I determined further investigation of the complaint was not warranted, as steps are being taken to revise policy to address the poor administration identified, and the actions taken by the Department on this occasion were reasonably open to it.

Department of Health

Patient Travel Assistance Scheme – May 2024

A complaint was received about the Department's administration of the Patient Travel Assistance Scheme (PTAS). The complainant alleged they were provided with incorrect information during the application process.

The PTAS operational Framework (framework) guides the Department's decisions regarding eligibility for financial assistance under the scheme. Travel to private interstate clinical services is specifically excluded under the framework. Travel to public interstate services is also excluded, unless the referring Doctor is a Tasmanian specialist. The framework goes on to provide, however, that an exceptional ruling may be requested and made on a case by case basis, considering the individual circumstances of the patient.

The framework is unclear as to whether an exceptional ruling can be requested under any circumstances, or if some or all of the eligibility exclusions still apply. The complainant's request for an exceptional ruling was declined in this instance, without fulsome reasons being provided. It was identified that staff were interpreting the framework inconsistently, and the framework is not clear enough for members of the public who may be unfamiliar with the process.

Outcome

The Department agreed to review the framework (including associated documents and online information) to ensure it is clear and consistent with the Department's aims.

University of Tasmania

Non-Award Units and Graduate Testamur (a certificate of having passed an examination) – March 2024

A complaint was received from a student at the University of Tasmania (UTAS) concerning the conferral date of a Graduate Certificate. The complainant asserted that UTAS failed to inform them that they needed to request that their non-award units be added to their award units, which would have made them eligible to graduate at an upcoming graduation ceremony. The complainant asserted that this came about due to poor communicative practices on behalf of UTAS.

The complainant referred the complaint to my office after following the internal complaints process with UTAS. My office undertook preliminary inquiries with UTAS into the concerns raised by the complainant. In particular, how UTAS communicates issues relating to enrolment and graduation with students, whether UTAS proactively follows up on issues relating to graduation and whether the complainant was advised of any issues with their enrolment prior to graduation.

As a result of these inquiries, UTAS identified by its own admission that there was a gap in communication with the complainant. My team was satisfied on the evidence that UTAS had demonstrated poor practice in respect of its failure to clearly communicate with the complainant.

In its response to my office, UTAS advised that it would include an additional step in its process when reinstating students to a non-award course; it will now provide explicit advice to students informing them that they need to apply for credit. My office was satisfied that this additional process will prevent a similar situation arising in the future.

Tasmanian Prison Service

New Directions Delays – December 2023

A complaint was received by a person in custody regarding the delay in access to the New Directions program. New Directions is a program made available to all people in custody serving a sentence for a sexual offence. Completion of this program may be required for the people in custody to be eligible for parole. The complainant said they were eligible to apply for parole in February, but had not yet started the course. They were concerned they would be denied parole because of this.

My team made preliminary inquiries of the Tasmanian Prison Service (TPS) and asked what were the reasons for the delays, how the wait list is managed, and how it is managing those people in custody nearing their parole eligibility date. TPS advised that its Interventions Team maintains a database of all people in custody serving a sentence for a sexual offence according to their determined risk score, and their parole eligibility date. An initial risk assessment is completed based on information not likely to change, such as age and offending behaviour, which helps to determine the risk of reoffending. While a person in custody may have a later parole eligibility date, the initial risk score may be higher, meaning it is anticipated it will take longer for them to complete the program.

A secondary risk assessment is then carried out when a person in custody nears the top of the wait list. This risk assessment determines suitability for the New Directions course, and is concerned with risk factors that are likely to change, such as emotional control, to determine what stage of the course they should begin at. Throughout the course, the assessors determine how a person in custody is engaging with the program based on the Stages of Change model. How long the course takes to complete is varied, and depends on how a person in custody responds to the program, including how they engage and make changes.

TPS also provided information about the reasons for the extended time on the wait list. These reasons were operational, such as staff shortages and lockdowns. TPS advised that a contributing factor to the extended time on the wait list was changes in sentencing, with an increase of sexual offenders being given shorter sentences. TPS advised, however, that it had been able to catch up on the backlog.

As for this particular complaint, TPS advised the person in custody would be allowed to complete the program one-on-one, based on the risk assessment score and level of engagement. It was anticipated they would be able to complete the program prior to applying for parole.

My team was satisfied that the explanation for how a person in custody's position on the wait list is determined is reasonable and is based on evidence and a number of risk assessments. From the information provided, it appeared the delays were due to a number of factors not necessarily within the control of TPS. The person in custody was provided this information, and has now commenced the program. The complaint was closed under section 21(1)(d) of the *Ombudsman Act 1978*.

Clarence City Council

Notice of Works – August 2023

A complaint was received about Clarence City Council (Council) undertaking excavation works at the complainant's property. The complainant alleged the works were performed without authority and left a hazardous embankment and potential landslide area on their property.

Inquiries by my team determined that Council had conducted the works on an emergency basis because the embankment between the complainant's house and the street below was failing after rain events. A tree had fallen onto a house under construction, which had also flooded, and Council was concerned that flooding to other houses may occur. Council battered the embankment – battering is a technique which involves excavation intended to reduce slope and improve stability – to prevent further failure and to protect properties below.

Council inspected the site and determined that the embankment appeared to be constructed from unconsolidated fill, there was further cracking near the previously failed edge, and stormwater was being directed from a garage on the complainant's property into the area of the unconsolidated fill.

There is an easement in favour of Council running between the complainant's property and the properties below. Council has a statutory duty to protect people and property by ensuring that stormwater services in the municipality of Clarence are adequate and properly maintained.

Council is not required to give notice of entry in an emergency, if it is not practicable to do so. However, it is best practice for Council to take all reasonable steps to give notice before entry when it can, and to provide the property owner with as much information as possible.

The works notification letter was provided to the complainant after the works had been completed. It did not specify what the emergency works involved or how the complainant's property would be affected. Council advised it had a conversation with the complainant before works commenced, but the complainant disputes they were provided with information about the works themselves, or about Council's authority to conduct the works during the phone call. Council records could not establish that this information had been provided to the complainant. Given the serious impacts to and intrusion on the complainant's property, this information should have been documented and provided to the complainant in writing, even if Council did discuss the matter with the complainant. It is unfortunate that the letter was not provided to the complainant prior to works commencing.

Council acknowledged that in the letter to the complainant it had made an error about the legislative provision under which it had authority to enter. The complainant was referred to a provision relating to Council's authority to enter public rather than private land, although both entry provisions enable council to enter and remain on land to carry out operational or protective work on a public stormwater system.

The appropriate provision requires the public stormwater system being worked on to be identified on a map maintained by Council that is publicly available. Council advised that the relevant map was currently available on request and would be made available on Council's website over the ensuing months.

Council also has a general power of entry to perform its functions and exercise its powers under the *Local Government Act 1993* and advice to this effect was included in the letter to the complainant. It is unfortunate that the complainant was given some incorrect information about Council's authority to enter, but I am satisfied this did not alter the overall authority to enter.

It was suggested that Council develop pro-forma documents which will assist it to provide timely, thorough and accurate advice to members of the public when the need arises at short notice. The sufficiency of Council's correspondence and record keeping was also raised with Council with a view to improving practice.

Council acknowledged there had been some delay in it receiving a geotechnical report to outline works required to remediate the embankment. It had made follow up requests for the report but had not updated the complainant. Once the report had been received there was some further delay by Council in contacting the complainant to discuss it.

Council had asked the complainant to undertake plumbing works at the property in the interim to ensure no further damage occurred. The complainant had not done so, nor contacted Council to arrange a meeting with it as it requested.

Council confirmed it received two complaints from the complainant. It decided not to respond to the first because it was of the view the complainant had already raised the concerns in person at Council's offices, and that Council had adequately addressed them in previous correspondence to the complainant. Upon review, my office was not satisfied that the issues raised by the complainant had been addressed by Council in correspondence, and records did not support the matters raised having been addressed in conversation. The second complaint was also not responded to.

Council's Customer Service Charter provides that Council will try to resolve a complaint as quickly as possible and get back to the complainant, or keep the complainant informed of the progress of their complaint. If a complainant is not satisfied with the outcome, they can ask for a review by the General Manager who will investigate the matter and contact the complainant about it. Council should have responded to all the complaint issues raised and advised the complainant to seek a review if they remained dissatisfied.

Outcome

My office determined Council's actions in undertaking works was reasonably open to it, but the complaint identified poor administrative practice by Council. Suggestions for improved practice have been made to Council accordingly.

Tasmania Police

Body Worn Cameras – August 2023

A complaint was received about insufficient staffing at a regional police station. It was alleged Police did not appropriately respond when the complainant sought assistance in response to a person allegedly making serious threats against them in their home. The complainant asserted that Police instead told them to come back in the morning as the station was closing. The complainant disputed information contained in police records, in particular that they had advised that they did not want Police to attend when calling for assistance.

A complaint was made to Tasmania Police and the matter was reviewed and responded to by a senior member without delay. Reasons for the actions and decisions of Police were provided, and the complaint was reviewed in accordance with Abacus, the *Commissioner's Directions for Conduct and Complaint Management, and Compliance Review*. My team was satisfied that the response to the complaint addressed the operational concerns raised, but sought broader information about service delivery to assist the complainant.

My team was advised there had been some changes to operational staffing levels in the locality as a result of a larger operational centre opening nearby, however the relevant station continued to have on-duty officers present, as well as an after hours roster. Calls for assistance were responded to by the relevant station, or one of two larger operational centres nearby. Police advised it did not consider there was sufficient need to change the current service delivery model in the area.

The complaint identified some poor record keeping and a failure by officers to operate body worn cameras in accordance with relevant internal policy. The policy requires body worn cameras to be activated prior to, and during, any situation where a member exercises a legislated or common law police power in the performance of their duty, unless there is a genuine reason not to do so. In relation to record keeping, Police had not made a record of a phone conversation with the complainant on the date of the incident alleged.

Outcome

My office asked Police whether it would consider providing continuing professional development guidance to the relevant officers in relation to both body worn camera policy and making and retaining appropriate administrative records, and it agreed to do so.

Additionally, it appeared that the complainant had been given unclear advice about what might constitute an assault, in the course of providing a statement to police. Police allocated another officer to review the evidence and follow up with the complainant.

Tasmania Prison Service

Personal Searches – June 2024

A person in custody contacted my office to raise concerns about a search they had been subjected to. As part of the standard search routine undertaken by the Tasmania Prison Service the complainant's cell had been searched and the complainant had also been subjected to a personal search. As part of their personal search, the complainant raised concerns that the correctional staff requested that he pull back his foreskin and part his buttocks.

My office undertook preliminary inquiries in relation to the complaint raised and information was requested about the search. As part of the response, the Tasmania Prison Service acknowledged that the person in custody had been requested to pull back his foreskin. Tasmania Prison Service confirmed that correctional staff may request a person in custody pull back their foreskin, but only in limited situations. In addition, a request of this nature is required to be supported with additional documentation.

My office identified that the search had not been adequately supported by the required documentation and the Tasmania Prison Service was provided with feedback about this defective administrative action.

Tasmania Prison Service acknowledged that the search had been non-compliant and advised that the correctional staff involved with the search had been counselled. In addition, all correctional staff were reminded of the requirements associated with searches, including what is required when searches extend beyond a standard personal search.

*The relevant Director's Standing Order was amended post reporting year and now prohibits the personal search undertaken that focused part of this complaint.

Section 6

Other legislation



Who was investigated

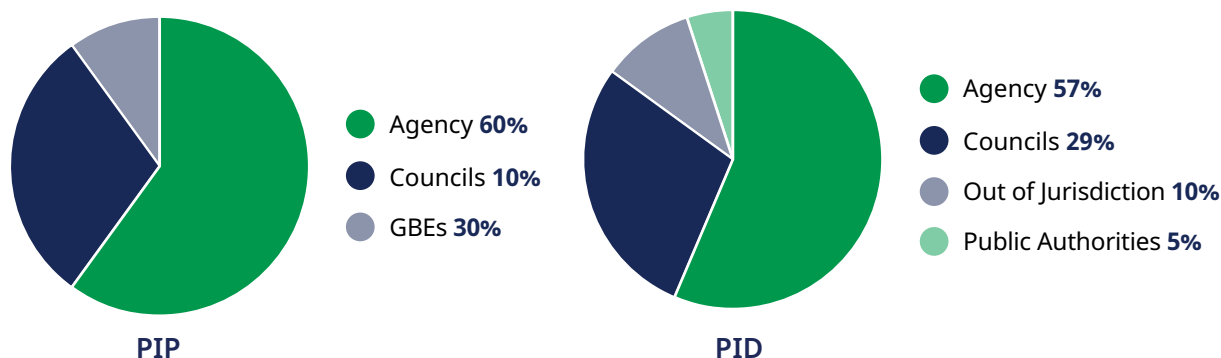


Table 9 – Personal information protection (PIP) matters and public interest disclosures (PID)

	Received 2022-23	Closed 2022-23	Received 2023-24	Closed 2023-24
Personal information protection matters	19	17	21	21
Public interest disclosures	10	16	10	10

Table 10 – Closure outcomes

Issue	2023-24
PID	10
Out of Jurisdiction	1
PID – Agency Determination	1
PID – Determination Investigated	1
PID – Disclosure not PID	7
PIP	21
No defective Administration	1
Declined	1
Complaints referred to higher level	1
Out of Jurisdiction	1
PIP – Case declined	14
PIP – Case substantiated	2
PIP – Case unsubstantiated	1
Total	31

Public Interest Disclosures Act 2002

My responsibilities under the *Public Interest Disclosures Act 2002* (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

My office was without its Senior Investigation Officer (Public Interest Disclosures) for a significant period during the 2023-24 reporting year. A new Senior Investigation Officer (Public Interest Disclosures) was appointed in May 2024 and has taken primary responsibility for the functions under the *Public Interest Disclosures Act 2002*, including providing advice under the Act.

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 – section 84(a);
- the Ombudsman received 10 disclosures about improper conduct;
- six determinations were made that disclosures were not public interest disclosures – section 84(c);
- one investigation from the previous reporting year into alleged improper conduct continued this reporting year – section 84(d);
- no disclosed matter was referred under section 41 to the Commissioner of Police, the Auditor-General, a Commission under the *Commissions of Inquiry Act 1995* or any other prescribed bodies or the holder of a prescribed office to investigate – section 84(e)(i);
- no disclosed matter was referred to a public body to investigate under Part 7 of the Act – section 84(e)(ii);
- the Ombudsman did not decline to investigate any disclosed matters under section 40 of the Act – section 84(f)(i);
- no disclosed matter was referred to the Ombudsman by a public body for investigation – section 84(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 – section 84(g);
- the Ombudsman took over no investigations of any disclosed matter – section 84(h);
- no recommendations were made during the year – section 84(i);
- no recommendations were made during the year – section 84(j);

- no recommendations were made in relation to the procedures established by a public body under Part 7 – section 84(k); and
- no action was taken during the year on any recommendations of the Ombudsman – section 84(l).

I am also required to oversee the determinations made and the investigations conducted by public bodies.

Personal Information Protection Act 2004

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 PIP 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 PIP Act gives people the right to complain to the Ombudsman about an alleged breach of the PIPPs.

I can only deal with a complaint regarding an alleged breach of a PIPP that applies to the complainant, not another person. The complainant, however, must first have raised the matter with the relevant personal information custodian and then have been unsatisfied with the response they received.

“

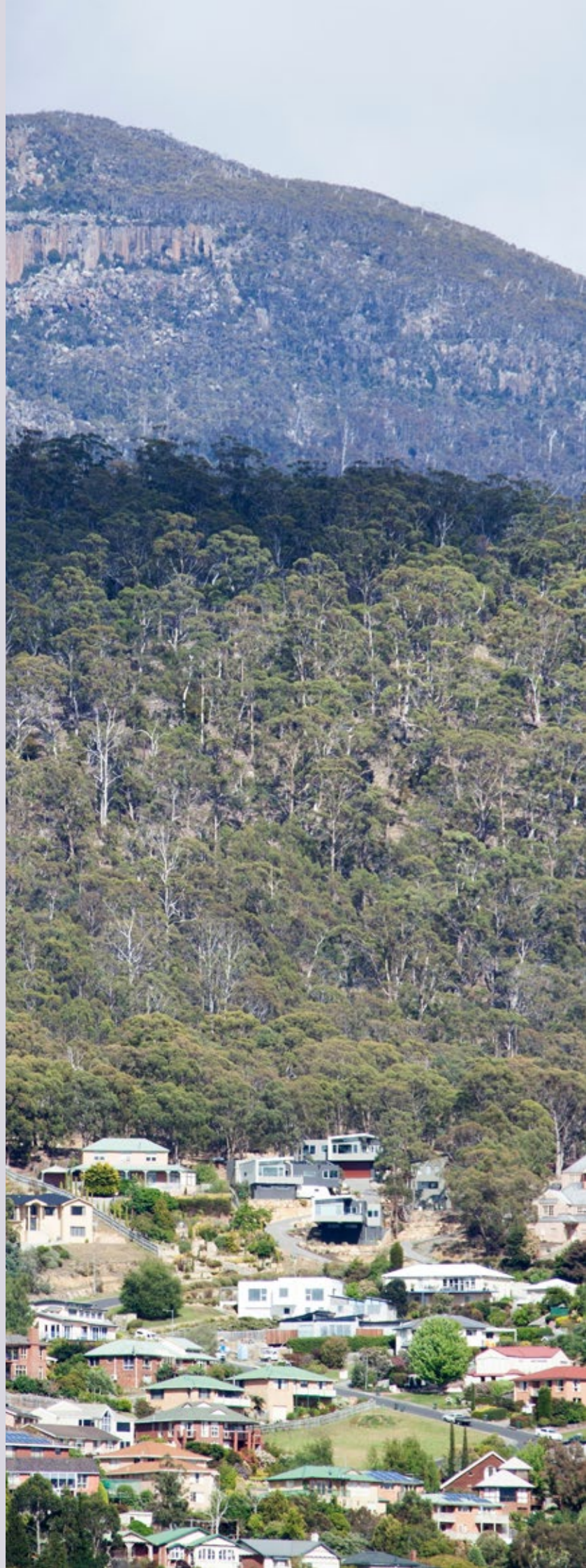
The Ombudsman is also required to oversee determinations made and investigations conducted by public bodies.

We received and closed 21 PIP Act complaints in the reporting year. The closed complaints included:

- one case where a contravention was found to be substantiated following an investigation;
- two that were out of jurisdiction as they did not relate to a potential breach of a PIPP;
- one that was closed under section 19(1A) after having regard to the nature and seriousness of the complaint, the Ombudsman believed the complaint could be resolved expeditiously;
- thirteen related to complaints that had not been raised with the relevant public information custodian in the first instance.

Section 7

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 on the Parliamentary website.

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 2023 and June 2024. 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 section 38I 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 section 38H(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

Commissioner Adams advised that nine police officers (this comprised six primary handlers and three relief handlers) and two correctional officers had been issued with authorisations for the 2023–24 financial year. The Commissioner provided a copy of each authorisation as well as each of the authorised person's written reports required under section 38F of the Act.

The Commissioner advised that there were no authorisations cancelled during the reporting year, although for the coming financial year of 2024–25 eight police officers (six primary handlers and two relief handlers) and two correctional officers will be issued with authorisations under section 38B of the Act.

The Commissioner reported on the ongoing purpose of issuing an authorisation under section 38B 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. She 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 has two drug detector dogs and two handlers.

The Commissioner provided copies 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 Southern District reports prepared by the authorised police officers show that possession of the controlled substances is recorded with appropriate detail and accuracy.
 - One authorised officer was identified as the handler of a dog that detects explosives and firearms, so this officer's report reflects less of a need to access the controlled substances. This authorised officer is available to provide relief handling of a drug detection dog when other authorised officers are on leave or unavailable.
 - One authorised officer is a relief handler whose primary role is in another Division. As a consequence, this officer's report identifies less need to access the controlled substances.
 - One authorised officer has been on long-term leave for the duration of the 2023–24 financial year and arrangements were made for a report to be completed by a manager. The report shows that the officer was not able to and did not access, possess or supply any controlled substance.

- The Northern District reports prepared by the authorised police officers show that possession of controlled substances is recorded with appropriate detail and accuracy. One authorised officer is a relief handler whose primary role is in another Division. This report showed less need to access the controlled substances.
- The Western District reports prepared by the authorised police officers show that possession of controlled substances is recorded with appropriate detail and accuracy. The dog based in Devonport detects explosives and firearms, so there is less need for this authorised officer 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 Tasmanian Prison Service 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 Commissioner advised that no details were omitted from her report to me on the basis that they would compromise the lawful carrying out of any duties by a police officer.

My opinion

I am required to express an opinion as to the comprehensiveness and adequacy of the records of the Commissioner of Police kept under section 38G and whether the authorisations to which the operational report relates have been effective and appropriate.

“

I was satisfied on reviewing the report and those records that the records were comprehensive and adequate.

The Commissioner's report required no clarification regarding the matters reported. The Commissioner provided copies of all the records that were made in the reporting year under section 38G 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 section 38F contained all the required details.

Having reviewed those reports I was also satisfied that the authorisations to which the operational report relates have been effective and appropriate. The authorisations were 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.

Section 8

Right to Information Act 2009



Highlights of 2023–24 in the Right to Information (RTI) jurisdiction

- A successful celebratory event was held on 28 September 2023 to mark the 30th anniversary of an information access scheme in Tasmania;
- The historical backlog of external review applications awaiting finalisation was significantly reduced, with ninety-seven external reviews finalised – the highest ever number of external reviews closed in a reporting year. Overall numbers of external reviews are now at the lowest point since the 2018-19 reporting year;
- The length of wait times for finalisation of external review applications lowered dramatically, with a 49% decrease in average days open over the financial year. This is the lowest average since the 2016-17 financial year.

Report on the *Right to Information Act 2009* (in compliance with section 53)

The Ombudsman plays a central role in information access, as the external review entity under the *Right to Information Act 2009* (the Act). The Act gives a legally enforceable right to members of the public to access government information, and my office's work is directed at ensuring that the maximum amount of official information is released by public authorities in accordance with the objects of the Act.

Public authorities include all government departments, local councils, ministers, government business enterprises, and other statutory bodies (such as the University of Tasmania). Reviewing the decisions of public authorities to ensure that they are properly made, and that relevant information which is not exempt is released, is my primary function in this area.

I also provide advice and guidance as to the operation of the Act to public authorities, ministers, RTI users, and members of the public.

The RTI team's assistance in relation to the operation of the Act in the 2023–24 reporting year included:

- providing access to published guidelines and a practice manual;
- responding to enquiries from public authorities and potential applicants;
- handling complaints about issues to do with the administrative action of public authorities connected to RTI under the *Ombudsman Act 1978*;
- publishing a monthly Delegate Newsletter to RTI decision makers circulating decisions, RTI news, and practice tips;
- publishing a monthly Decision Bulletin further circulating my published external review decisions to the wider RTI community;
- providing a training session to the Executive Leadership Development Forum of senior leaders in the Department of Police, Fire and Emergency Management;
- publishing my external review decisions online for educational and transparency purposes;
- responding to requests for expert input into proposed policy changes and legislative amendments connected to information access;

- hosting interns from the University of Tasmania to provide knowledge and exposure to RTI and administrative law in practice;
- collating and refining data provided to the National Dashboard regarding information access across Australia to improve the accuracy of data reported; and
- participating in the Association of Australian Information and Access Commissioners forum and associated working groups, sharing national insights.

Performance

The current recurrent funding of my RTI team provides for three full-time equivalent staff – a Principal Officer, a Senior Investigation and Review Officer, and an Intake and Assessment Officer.

I have been able to utilise savings to employ several additional staff on temporary contracts to assist with the reduction of the historical backlog of external review applications. This has been successful but has highlighted the need for additional funding to be fully effective in my external review and guidance functions under the Act. This was also specifically recommended in Recommendation 17.8(4)(b) of the report of the *Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings Report*. Accordingly, I have sought additional funding from the Tasmanian Government to cement progress in the reduction of the backlog, and to ensure it does not return and enable an expanded training program for RTI delegates. While the response to this request has been delayed due to the later budget process in 2024, I am

30 years of RTI event – 28 September 2023

Ombudsman Tasmania held an event in Hobart to celebrate International Access to Information Day and the 30th anniversary of the introduction to a right to information scheme in Tasmania.

The event featured speeches from a panel of experts relating to the history and strengths of the scheme and then a robust discussion concerning the challenges in RTI and the impact of recommendations from the Commission of Inquiry. Panel members were the Ombudsman, Matt Healey of the Department of Premier and Cabinet (a late substitution for Secretary Jenny Gale) and Claire Bookless of the Environmental Defenders Office.

Points of interest from the event were:

- the fascinating history of RTI, commencing from a private member's bill from then House of Assembly MP Dr Bob Brown during the Labor-Green Accord which became the *Freedom of Information Act 1991*;
- early and controversial amendments to the FOI Act which excluded TT-Line Pty Ltd and Forestry Tasmania for many years;
- that the change from FOI to RTI in 2009 was intended to emphasise that access to information was a right, to encourage greater proactive release of information, to reduce fees and to clarify the public interest test;
- the panel agreed that the formal recommendations regarding improvements to RTI from the *Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings Report* are likely to lead to significant change in the scheme; and
- the panel also agreed that the scheme remains highly valuable but removal of delays in the system and greater accessibility of government information is crucial for it to be most effective.

hopeful that my request will be approved and major progress made to date will continue into the next reporting period.

As indicated in the highlights on page 45, a record high number of external reviews were closed this financial year and open external review applications are at their lowest point since the 2018-19 reporting year. There are now no unallocated files more than 12 months old, this is a major improvement on past performance in which files remained unallocated for up to three years at the peak of the backlog. I remain very thankful for the consistent application of effort by the RTI team to achieve these impressive results and for the high quality of their work.

While considerably reduced, the backlog of external reviews still persists, and my highest priority is again the elimination of that backlog. I am conscious of the detrimental effect of delays in finalising external reviews for applicants and on the whole access to information scheme in Tasmania. I will continue to work to redress this issue and to achieve sustainable staffing levels to ensure it does not recur.

Priorities

Priorities for 2023–24 were to:

- build on the progress already made in reducing the backlog of external review requests, with a goal of having no applications for external review which were received before 2022 remaining to be finalised by the end of the financial year;
- increase training and outreach to promote RTI and best practice;
- celebrate the 30th year of an information access scheme in Tasmania; and
- commence a monthly Decision Bulletin further circulating my published decisions.

I am pleased to report that we achieved or made progress with each priority. While the goal of having no external reviews received before 2022 remaining to be finalised was

not quite reached by 30 June 2024, I am content with this goal having been achieved on 11 July 2024.

Our priorities for 2024–25 are to:

- continue to reduce the backlog of external review requests, with a goal of having no unfinalised external reviews which were received before 2024 by 30 June 2025;
- ensure at least one training session on RTI is offered to all public authorities;
- update guidance materials to increase RTI decision-maker capacity and promote RTI best practice; and
- seek additional funding to ensure adequate staffing levels are reached to enable my external review and educational functions to be fully effective.

Year in review

The right to information scheme in Tasmania continues to be frequently used and highly important. External review applications increased slightly from the previous financial year, rising by 4% to 69 applications.

The positives:

- significant engagement from the RTI community with the celebratory event on 28 September 2023 to mark 30 years of information access in Tasmania;
- major progress on the elimination of the backlog, with the highest ever number of external review applications closed (97), decisions issued (39) and the lowest case numbers since the 2018-19 reporting year (60);
- frequent approvals of applications under our Priority Policy to fast-track urgent applications and mitigate the negative impact of the backlog; and
- continued high levels of positive engagement from public authorities with attempts by my office to resolve matters without a formal decision, or to promote more transparent practices.



The ongoing challenges:

- 80% of my decisions varied or set aside the public authority's findings, continuing to reflect a very high percentage of errors in decision-making (though I note that some variations to decisions are minor);
- Skill levels and knowledge of the RTI scheme are variable among delegates and relevant training programs are unavailable for many new delegates or those requiring further training;
- due to my limited staffing resources and my necessary focus on clearing the backlog of review decisions, my office has not been able to offer sufficient training or revitalise guidance materials to the extent needed by RTI decision-makers;
- backlogs and delays continue in the processing of external reviews by my office and in issuing decisions on RTI applications by public authorities; and
- poor communication by public authorities with applicants and the failure to provide appropriately detailed reasons in decisions remains a common issue.

Case examples

Early Resolution

TasTafe

A preliminary view was issued by my office to TasTAFE indicating that its refusal to accept an application for assessed disclosure pursuant to section 20(b) of the Act for being vexatious was likely to be considered invalid. This was because the applicant's right to request information from TasTAFE under the Act was not displaced by a breakdown in the relationship between the applicant and TasTAFE, and restrictions imposed on the applicant's ability to contact TasTAFE. TasTAFE agreed to accept the applicant's assessed disclosure application and the external review was finalised.

National Trust of Australia (Tasmania)

The National Trust of Australia (Tasmania) (the Trust) did not formerly consider itself to be a public authority under the Act and refused to accept an application for assessed disclosure. The applicant raised concerns with my office and, after communication with the office, the Trust agreed that it met the definition of a public authority under the Act. This was because it is established by the *National Trust of Australia (Tasmania) Act 1975* for a public purpose. The Trust issued a decision to the applicant and further external review was unnecessary.

Notable decisions

Daniel Winston and City of Hobart

This decision found that information identifying a person who complained to Council about an alleged environmental nuisance caused by Mr Winston was exempt from disclosure pursuant to section 36 of the Act. This decision determined that, in the absence of particular or unusual circumstances, the release of information revealing the identity of complainants will generally be considered contrary to the public interest. This was due to the likelihood of deterring future complaints, on which municipal councils often rely to be able to perform their regulatory role, and concerns about the real potential for harm to complainants.

T and Department of Health

This decision overturned the Department of Health's proposed exemption of information revealing the identity of those who provided medical care to the applicant. I strongly criticised the Department's continued use of section 36 to prevent the release of such information, despite past clear guidance in previous decisions. My office also expressed its concern at the Department's indication to the applicant that it would be willing to provide requested information far more quickly and without redactions if an undertaking was made that the requested information would not be used in litigation against the State. This is clearly contrary to the Act. The Department advised that it had ceased this practice.

Right to Information snapshot

External review applications



69

Applications received

97

Applications closed

60

Total number of open external review applications at 30 June 2024

Types of applicants



49

Members of the public/ organisations

7

Persons other than the original RTI applicant

5

Journalists

8

MPs

Common topics of external reviews



Concerns about local government spending and integrity

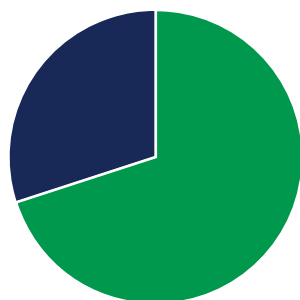
Concerns about policing and the court system

Delays to access to personal files held by public authorities

Enquiries

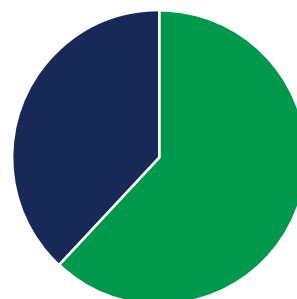
152

RTI enquiries received



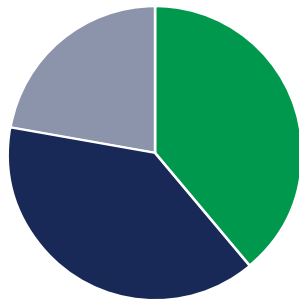
- Verbal response provided 30%
- Written response provided 70%

Received from:



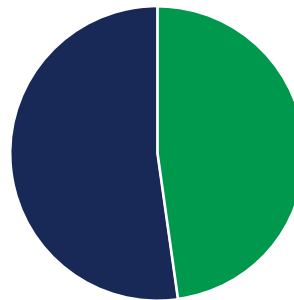
- Public authorities 38%
- The community 62%

Types of requests



Related to:

- State Government departments **39%**
- Local councils **39%**
- Statutory authorities and other bodies **22%**



- Personal interests of applicant **48%**
- General topic of interest **52%**

Most common exemptions appealed to the Ombudsman

28%

s36
Personal
information

17%

s35
Internal
deliberative
information

13%

s31
Legal
professional
privilege

12%

s39
Information
obtained in
confidence

9%

s30
Information
relating to the
enforcement
of the law

Reasons for external review requests

51 %

Dispute
use of
exemptions
(**35**)

20%

Dispute refusal
of application or
that all relevant
information
found (**14**)

19%

Public authority
did not provide
a decision within
the required
timeframe (**13**)

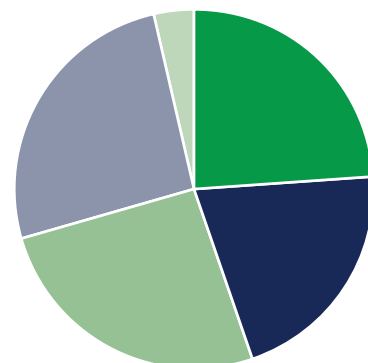
10%

Prevent the
release of
their personal
or business
information (**7**)

Early closure

Of the 58 external
reviews closed
without a formal
decision:

- Invalid **2**
- Declined for lack of substance/
not progressed by applicant **15**
- Withdrawn **14**
- Resolved between the parties **12**
- Resolved through assistance from
Ombudsman Tasmania **15**



Decisions of the Ombudsman



39

Decisions issued on external review applications

15%

Of decisions related to prioritised external review applications

15%

Related to a decision to refuse to provide any information, the remainder related to the use of exemptions

MOST COMMONLY CLAIMED EXEMPTIONS:

- Personal information of a person (s36) – **56%** (affirmed in only 9% of uses)
- Internal deliberative information (s35) – **33%** (no uses of exemption affirmed)
- Information obtained in confidence (s39) – **26%** (affirmed in 10% of uses)
- Information relating to business affairs of third party (s37) – **21%** (no uses of exemption affirmed)
- Legal professional privilege (s31) – **18%** (affirmed in 14% of uses)

External review requests

Table 11 – Summary of Right to Information Reviews

Local Government Council	Received	Closed	Reviewed
Brighton Council	4	1	0
Central Coast Council	0	1	0
Circular Head Council	0	1	0
City of Hobart	6	6	4
City of Launceston	6	7	2
Derwent Valley Council	4	1	0
Devonport City Council	1	1	1
Dorset Council	0	2	2
Flinders Council	1	1	1
Huon Valley Council	1	2	0
Meander Valley Council	0	3	2
Northern Midlands Council	3	1	1
Waratah-Wynyard Council	1	1	1
West Coast Council	0	1	0
West Tamar Council	0	1	0
Total	27	30	14

Table 11 – Summary of Right to Information Reviews continued

State Government Department	Received	Closed	Reviewed
Department for Education, Children and Young People	5	12	2
Department of Health	6	9	4
Department of Justice	4	7	2
Department of Natural Resources and Environment Tasmania	3	6	3
Department of Police, Fire and Emergency Management	7	9	4
Department of Premier and Cabinet	1	2	2
Department of State Growth	1	4	1
Department of Treasury and Finance	0	2	1
Total	27	51	19
Statutory Authority or Other Body			
Marinus Link	1	0	0
Hydro Tasmania	0	1	1
Minister for Human Services	0	1	0
Minister for Resources	0	1	0
Northern Tasmanian Development Corporation	0	1	0
Office of the Premier	6	3	1
Tasracing Pty Ltd	2	0	0
The Office of Tasmanian Assessment, Standards and Certification (TASC)	2	1	0
TT-Line Company Pty Ltd – Spirit of Tasmania	0	1	1
University of Tasmania	1	4	3
Tourism Tasmania	1	0	0
Integrity Commission	1	1	0
TasTAFE	1	1	0
Environment Protection Authority	0	1	0
Total	15	16	6
GRAND TOTAL	69	97	39

Figure 2 – Summary of Right to Information external reviews

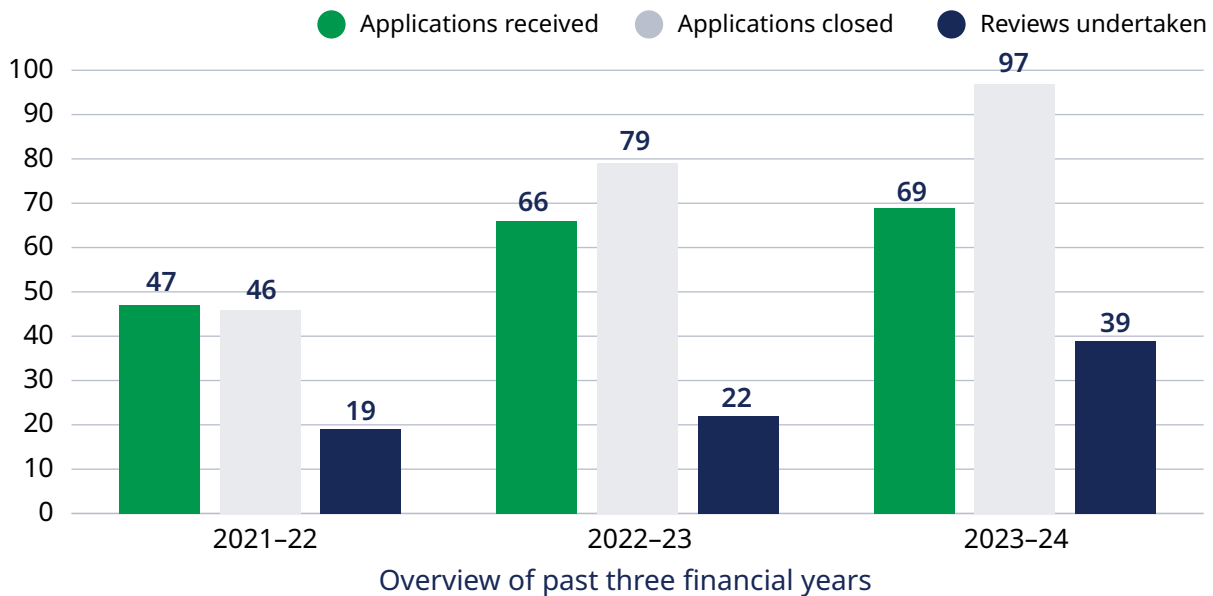
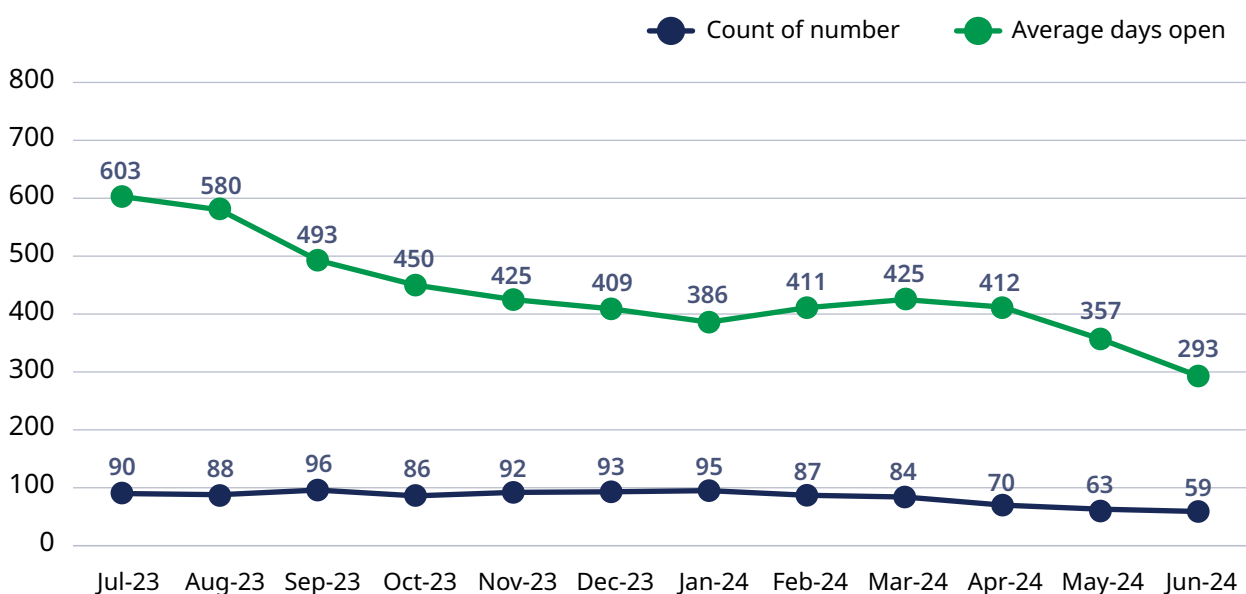


Table 12 – Right to Information external review outcomes

Decision	2022-23	2023-24	Variance
Public authority decision affirmed	3	8	166%
Public authority decision varied	14	27	93%
Public authority decision set aside	5	4	-20%
Other outcome	57	58	2%
Total	79	97	23%

Figure 3 – External reviews – average days open and active reviews by month



Section 9

Energy Ombudsman Act 1998



Introduction

As Ombudsman I have various functions under the *Energy Ombudsman Act 1998*, and I perform these functions with the assistance of three staff: a Principal Officer and two Investigation Officers, together with support from the general office administration team. Since November 2022, I have also been assisted by the Deputy Ombudsman.

Energy issues at a glance

- Billing continues to be the major issue in complaints.
- Customer service was the second highest complaint issue.
- Complaints relating to gas retail and distribution are almost non-existent.
- There has been a significant increase in complaints and enquiries opened and closed.

Summary of complaints and enquiries

Table 13 – Enquiries

Enquiries	2022-23	2023-24	Variance
Enquiries opened in the period	277	336	18%
Enquiries closed in the period	76	225	66%
Out of jurisdiction enquiries closed	106	159	33%

Table 14 – Complaints

Complaints	2022-23	2023-24	Variance
Opened in period	154	244	37%
Closed in period	178	263	33%

Table 15 – Summary of issues

Issue	2022-23	2023-24	Variance
Billing	134	266	99%
Credit	10	19	90%
Customer Service	22	38	73%
Land	10	15	50%
Marketing	0	0	0%
Provision	21	12	-43%
Supply	21	10	-52%
Total	218	360	65%

Analysis of complaints

Billing

Billing continues to be the top issue in complaints made to me, and complaints in this regard have been steadily increasing over the years as society becomes more energy conscious. Many of the complaints I receive about billing are also exacerbated by pressures from the increases to cost of living.

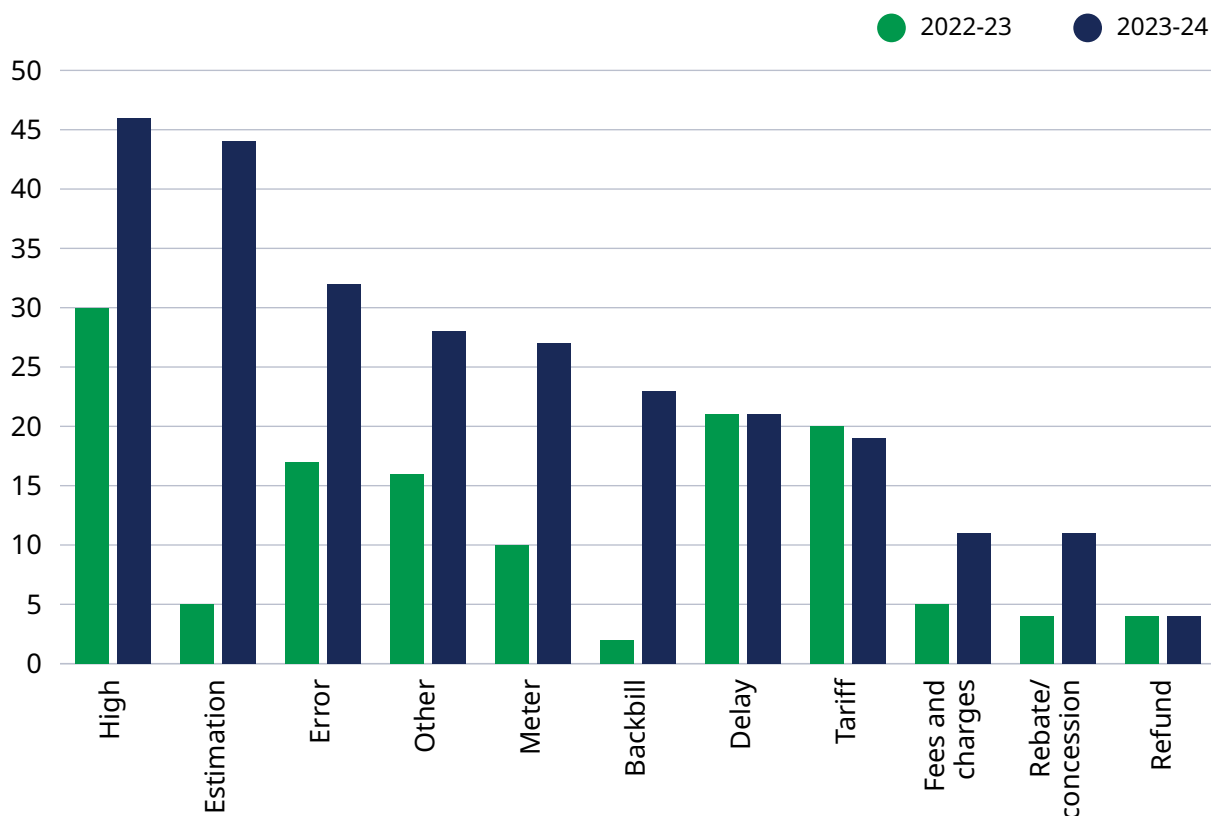
As outlined in table 15 above, the main subcategories of billing complaints for this reporting year related to high bills, estimations and errors.

High bills is usually the main billing complaint issue I receive, but I am surprised to note that estimation was the second highest billing issue this reporting year. Bills based on estimations generally occur when a meter reader cannot access a meter to provide an actual reading for billing. With the widespread roll out of advanced metering,

Table 16 – Breakdown of billing subcategories

Issue	2023-24	Percentage split
Billing	266	
High	46	17%
Estimation	44	17%
Error	32	12%
Other	28	11%
Meter	27	10%
Backbill	23	9%
Delay	21	8%
Tariff	19	7%
Fees and charges	11	4%
Rebate/concession	11	4%
Refund	4	2%

Figure 4 – Billing subcategories 2022-23 vs 2023-24



which utilises remote reading, I expected estimations to reduce. It appears that generally the complaints about estimations are escalated to me as the complainants do not feel that they have been adequately notified of an estimated read. There is a requirement that customers will be provided with a notification on the bill. However, I often find that customers do not read the entirety of the bill and pay without realising it is based on an estimated reading.

There is also a significant increase in complaints regarding the subcategory issue of back-billing. A back-bill usually occurs when a retailer fails to issue a bill within the required 100 days. Generally, these complaints are resolved by providing an explanation that a retailer is limited to recover the amount undercharged in the 9 months before the date the customer was notified of the undercharging. I have an expectation that a retailer would work with its customer to lessen the impact of a back-bill by offering affordable payment arrangements. I understand that Aurora Energy had some issues with delayed billing during its billing system migration which would largely explain the increase in back-billing as a complaint subcategory issue for the reporting year.

Credit

Complaints about credit and payment difficulties have increased from the previous reporting year, from 10 to 19. This category of complaints included subcategories of payment difficulties, impending disconnection for nonpayment and debt recovery. I suspect that this issue will continue to increase with the cost of living pressures in the future.

I have an expectation that retailers will work with their customers facing financial hardship and offer affordable long-term payment plans where necessary.

Customer service

Customer service complaints continued to be a significant issue this reporting year. The main subcategories of customer service complaints included failure to respond, incorrect advice/information and poor service.

While complaints raising issues about customer service are generally secondary to the main issue, a poor customer experience can influence a complainant's willingness to accept a retailer's offer to resolve a complaint. I suspect that as retail competition continues to expand in Tasmania, complainants will choose to change retailers to resolve their customer service concerns.

Marketing

There were no complaints relating to marketing for this reporting year.

Land

Land complaints involve issues with their network assets on or near private land, vegetation management, easements and property damage. There was an increase in these complaints made to me for this reporting year. Generally, these complaints are complex in nature and take significant time and resources to resolve.

Provision and Supply

Complaints relating to provision and supply have decreased for this reporting year. Supply is a catch-all term used for complaints concerning planned and unplanned outages on TasNetworks distribution network. Provision complaints relate to issues with connections such as altering an existing connection or establishing a new connection. I suggest that the reduction in complaints is due to the relative low number of significant weather events for the reporting year and for TasNetworks work in ensuring its customers are more informed of the connections process.

Closure reasons

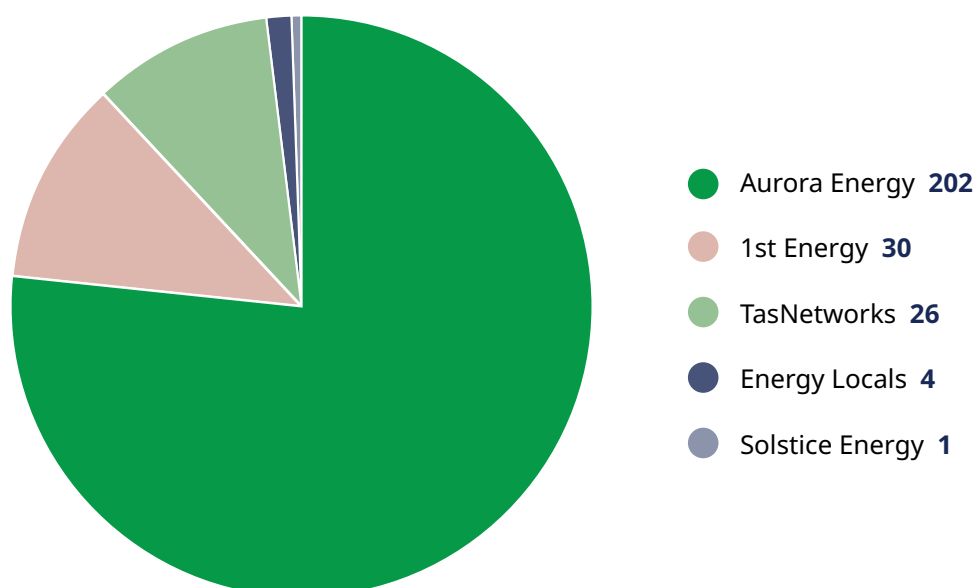
Table 17 – Complaint closure reasons

Entity	Resolved – facilitated resolution	Resolved – negotiated resolution	Complaint withdrawn/referred to higher level/No further inv/Out of Jurisdiction	Total
Aurora Energy	112	75	15	202
1st Energy	14	15	1	30
TasNetworks	20	5	1	26
Energy Locals		4		4
Solstice Energy			1	1
Grand Total	146	99	18	

Table 18 – Time taken to resolve complaints

Timeframe	Number	%
1 week or less	16	7
8 to 30 days	55	21
1 to 6 months	149	56
More than 6 months	43	16

Figure 5 – Total complaints



Case summaries

Aurora Energy

Tariff change request – May 2024

My office received a complaint from Ms K about her tariff change request. Ms K had requested Aurora Energy change the tariffs at her property from tariff/s 31 & 41 to the time of use tariff 93.

At the time of making her complaint, Aurora Energy had actioned the tariff change request but was refusing to backdate her usage to the time she allegedly made the original request.

My Investigation Officer undertook enquiries with Aurora Energy to determine when the customer had made the request. Aurora Energy advised that the agent who took the original call was not experienced enough to have processed the request and the customer would have been aware of this.

Telephone calls with energy retailers are recorded and, as such, a copy of that call was obtained by my Investigation Officer. Based on that call, it was determined that the customer would not have been aware her request was not processed at the time of the original call.

My Investigation Officer requested Aurora Energy calculate the difference in cost and apply a credit to the customer's account for that amount.

Ms K accepted the credit and was happy with the outcome of her complaint.

Energy Locals

Back-billing – April 2024

Ms F contacted the office to complain about a high bill she received from Energy Locals.

My Investigation Officer contacted Energy Locals and found that Ms F was affected by a meter price plan assignment error. When creating Ms F's account, Energy Locals billing system did not auto assign the correct tariff structure. This meant that Ms F was not billed for some of her energy consumption for a period of time. When Energy Locals uncovered the error it issued Ms F with a bill for backdated energy consumption.

Under the National Energy Retail Rules, when a retailer fails to bill a customer, it has a right to recover nine months of back-billing. Before Ms F contacted the Ombudsman, Energy Locals had already "written off" all consumption between 31/03/22 and 23/05/23 in accordance with this rule.

To assist in the resolution of the complaint, Energy Locals subsequently offered to apply a credit of \$336.33 to the account for the poor customer service.

Ms F was satisfied with the explanation provided by my Investigation Officer and the credit offer from Energy Locals.

Aurora Energy

Payment plan refusal – May 2024

My office received a complaint from an authorised representative on behalf of his partner, Mrs T.

The complaint concerned an impending disconnection and the retailer's refusal to arrange a payment plan when speaking to the authorised representative. The authorised representative told my Investigation Officer that Aurora Energy allegedly refused the payment plan as it was "too late" now that a disconnection had been scheduled.

Under the National Energy Retail Rules (NERR), a retailer may arrange for a de-energisation of a customer's premises if the customer has not paid the bill by the pay-by date providing that it has given the customer sufficient notice. My Investigation Officer identified that Mrs T had been provided with sufficient notice of the disconnection.

Nonetheless, the NERR also provides that if a customer advises a retailer that they are experiencing payment difficulties, the retailer is required to ensure that the customer has been offered, at least, two payment plans in the previous twelve months. On this basis, my Investigation Officer determined that, the customer and her authorised representative were eligible to enter a payment plan, and the disconnection was stopped.

The enquiries undertaken by my Investigation Officer resulted in a change to Aurora Energy's internal process for properties scheduled for de-energisation for non-payment, which in turn has successfully resulted in an increase in payment plan referrals and a reduction in disconnection cancellations.

TasNetworks

Installation of advanced meter – June 2024

Mr D contacted my office regarding installation of an advanced meter at his property.

Mr D had installed an Encoder Receiver Transmitter (ERT) meter a number of years ago to ensure a Japanese Maple tree close to the meter box would not be damaged by meter readers. An ERT meter can be read remotely from the street by TasNetworks. ERT meters are now being decommissioned due to the introduction of advanced meters. Mr D was advised that in order to install an advanced meter the tree would need to be trimmed significantly to allow access. Mr D adamantly opposed trimming the tree and instead engaged an electrical contractor to move the meter box and connection point to the other side of the residence.

Mr D claimed that TasNetworks should re-imburse this cost as he installed the ERT meter in good faith to avoid any future damage to his tree.

The requirement for 24 hour, seven days a week un-obstructed access is a condition for all meters under the Service and Installation Rules and National Energy Retail Rules. TasNetworks advised that this requirement would not have been different at the time of the ERT meter installation. I accept that the rationale behind this requirement is primarily safety so that emergency workers or field workers can access the meter when necessary. My Investigation Officer considered that if Mr D had been advised of the access requirements at the time of the installation of the ERT meter, he may have decided to move the metering point at that time. Considering this, TasNetworks agreed to waive the \$463.91 fee for the relocation of the meter.

An explanation was provided to Mr D that TasNetworks is not responsible for the private electrical contractor costs as this is private work that would have been payable by him if he had chosen to move the meter point when the ERT meter was installed. While I can appreciate Mr D's frustration at the situation being beyond his control, the roll out of advanced meters is occurring throughout the National Energy Market and the decision is supported by the Tasmanian Government.

Section 10

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 people in custody in the state's prisons. They also assist people in custody to raise and resolve concerns and complaints. As Ombudsman I am also the Coordinator of the Official Visitors Scheme. Visitors are appointed by the Minister for Justice under the *Corrections Act 1997* for a fixed term of three years. They act independently and may report to the Minister or the Director of Prisons on:

- the management or disciplining of a person in custody, or the conduct of correctional officers or State Service corrections employees, at a prison visited by the official visitor;
- any matter relating to the treatment or condition of people in custody at that prison; and
- the state of the prison.

Due to the successful recruitment of three new visitors and the retirement of some long-term visitors, at the end of the reporting period, the Prison Official Visitor pool has increased to five. These visitors undertook visits to all correctional facilities in the state, including 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 people in custody.

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 people in custody, who can raise matters of concern with 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 can 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 people in custody with Ombudsman complaint forms. These are also provided to people in custody by prison officers and management upon request, but many people in custody 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 can monitor change and the way people in custody's concerns are being dealt with. Section 10(7) of the Act requires the Coordinator of the Official Visitors to give the Minister a report on the activities of official visitors during each calendar year.



Mental Health Official Visitors

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

The Act maintains the role of Mental Health Official Visitors but also established the position of Principal Official Visitor. As Ombudsman I am also the Principal Official Visitor.

Official visitors 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 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.



Ombudsman
Tasmania

Financial Statements 2023-24

Contents

Contracts and Consultancies Awarded	66
Statement of Certification	68
Office of the Ombudsman and Health Complaints Commissioner Statement of Comprehensive Income for the year ended 30 June 2024	69
Office of the Ombudsman and Health Complaints Commissioner Statement of Financial Position as at 30 June 2024	70
Office of the Ombudsman and Health Complaints Commissioner Statement of Cash Flows for the year ended 30 June 2024	71
Office of the Ombudsman and Health Complaints Commissioner Statement of Changes in Equity for the year ended 30 June 2024	72
Notes to and forming part of the Financial Statements for the year ended 30 June 2024	73

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.

Office of the Ombudsman and Health Complaints Commissioner

- Ms Taya Ketalaar-Jones was engaged to conduct a review of the *Health Complaints Act 1995* and drafted an issues paper which outlined the problems identified in the preparation to seek legislative change – \$22,375.
- KPMG are currently engaged to undertake a comprehensive review of all functions of the Ombudsman and Health Complaints Commissioner. The report will fine point the current funding and resources pressures and provide effective and efficient solutions. The contract will be finalised in 2024-25 – part payment \$73,000.

Office of the Custodial Inspector and the OPCAT Implementation Project

In relation to the creation of the Tasmanian National Preventive Mechanism jurisdiction, expert consultants were again engaged to finalise work produced in the 2022-23 reporting year, and to further assist in the design of a best practice organisational model for Tasmania and develop additional draft expectations materials. Contracts and consultancies from the financial year include:

- Dr Yvette Maker, an expert in disability and human rights at the University of Tasmania, was engaged to prepare draft expectations on the treatment of people deprived

of their liberty in health and social care settings, in codesign with Tasmanian and national lived experience representatives and advocates – \$45,000;

- in relation to Dr Maker's codesign engagement, TasCOSS, the Speak Out Association of Tasmania, the Association for Children with Disability (Tas), the Council on the Ageing (Tas) and Disability Voices were engaged for two codesign sessions – \$1,500.00 each per session;
- Emeritus Professor Neil Morgan AM, was re-engaged to finalise expectations on the treatment of people deprived of their liberty in custody centres, including engagement with people in custody at Risdon prison – \$10,500;
- Ms Louise Finer and Ms Sarah Cooke OBE were re-engaged to finalise expectations on the treatment of people deprived of their liberty under mental health law, including visiting mental health facilities in Tasmania and engaging with the Chief Psychiatrist – \$14,000;
- ELM Consulting Australia, a Tasmania based consultancy, was engaged following a public request for quote advertisement period, to provide advice on implementation in relation to health and social care settings, and to provide updated recommendations on organisational design and budget – \$119,465;

- to implement recommendation 6 in the 2023 Report Preventing torture and ill-treatment in Tasmania, seven individuals were selected to join the Tasmanian NPM's inaugural Civil Society Advisory Council: Heidi La Paglia Reid, Maggie Blanden, Monique Hurley, Peter Williams, Tash Smyth, Jake Smith, Anthony Bull – \$200hr/meeting and for any preparation;
- Neil and Irene Morgan were engaged to assist with three inspections – Adult custodial centres education inspection, youth custodial centre education inspection and transition to adulthood inspection – \$36,000;
- Speak Out Advocacy was engaged to translate five recent inspection reports into Easy Read in line with the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability's recommendation that NPMs implement their functions in a disability-inclusive way – \$22,500; and
- the Australian Human Rights Commission was engaged to provide an accessible version of the expectations on the treatment of people deprived of their liberty in adult custodial centres, including facilitating focus groups with people in custody that will occur in the 2024-25 financial year – \$44,000.



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 2024 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.

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

13 September 2024

Statement of Comprehensive Income

for the year ended 30 June 2024

	Notes	2024 Budget \$'000	2024 Actual \$'000	2023 Actual \$'000
Income from continuing operations				
Revenue from Government				
Appropriation revenue – recurrent	2.1	4 972	4 631	4 097
Other Revenue from Government	2.1	219	232	167
Revenue from Energy Entities	2.2	557	587	369
Other revenue	2.3	-	21	92
Total revenue from continuing operations		5 748	5 471	4 725
Expenses from continuing operations				
Employee benefits	3.1	4 864	4 003	3 648
Depreciation and amortisation	3.2	32	77	72
Supplies and consumables	3.3	802	1 258	1 294
Other expenses	3.4	99	206	136
Total expenses from continuing operations		5 797	5 544	5 150
Net result from continuing operations (net operating balance)		(49)	(73)	(425)
Comprehensive result		(49)	(73)	(425)

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.

Statement of Financial Position

as at 30 June 2024

	Notes	2024 Budget \$'000	2024 Actual \$'000	2023 Actual \$'000
Assets				
<i>Financial assets</i>				
Cash and deposits	7.1	286	142	199
Receivables	4.1	56	50	29
<i>Non-financial assets</i>				
Property, plant and equipment	4.2	502	425	503
Other assets	4.3	-	85	37
Total assets		844	702	768
Liabilities				
Payables	5.1	7	17	21
Employee benefits	5.2	616	866	853
Total liabilities		623	883	874
Net assets/(liabilities)		221	(181)	(106)
Equity				
Accumulated funds		221	(181)	(106)
Total equity		221	(181)	(106)

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.

Statement of Cash Flows

for the year ended 30 June 2024

	Notes	2024 Budget \$'000	2024 Actual \$'000	2023 Actual \$'000
Cash flows from operating activities		Inflows (Outflows)	Inflows (Outflows)	Inflows (Outflows)
Cash inflows				
Appropriation receipts – recurrent		4 972	4 631	4 097
Appropriation receipts – other		219	232	167
GST receipts		-	106	114
Revenue from Energy Entities		557	587	393
Other revenue		-	19	92
Total cash inflows		5 748	5 575	4 863
Cash outflows				
Employee benefits		(4 336)	(3 528)	(2 987)
Superannuation		(511)	(479)	(388)
GST payments		-	(125)	(111)
Supplies and consumables		(802)	(1 298)	(1 291)
Other cash payments		(99)	(203)	(137)
Total cash outflows		(5 748)	(5 633)	(4 914)
Net cash from/(used by) operating activities	7.2	-	(58)	(51)
Cash flows from investing activities				
Cash outflows				
Payments for leasehold improvements		-	-	(36)
Net cash from/(used by) investing activities		-	-	(36)
Net increase/(decrease) in cash held and cash equivalents		-	(58)	(87)
Cash and cash equivalents at the beginning of the reporting period		286	199	286
Cash and cash equivalents at the end of the reporting period	7.1	286	142	199

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.

Statement of Changes in Equity

for the year ended 30 June 2024

	Accumulated surplus/ deficit \$'000	Total equity \$'000
Balance as at 1 July 2023	(106)	(106)
Total comprehensive result	(75)	(75)
Total	(75)	(75)
Balance as at 30 June 2024	(181)	(181)

	Accumulated surplus/ deficit \$'000	Total equity \$'000
Balance as at 1 July 2022	319	319
Total comprehensive result	(425)	(425)
Total	(425)	(425)
Balance as at 30 June 2023	(106)	(106)

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 2024

Note 1 Explanations of Material Variances between Budget and Actual Outcomes	74	Note 7 Cash Flow Reconciliation	86
1.1 Statement of Comprehensive Income	74	7.1 Cash and Deposits	86
1.2 Statement of Financial Position	74	7.2 Reconciliation of Net Result to Net Cash from Operating Activities	87
1.3 Statement of Cash Flows	75	Note 8 Financial Instruments	87
Note 2 Revenue	75	8.1 Risk Exposures	87
2.1 Revenue from Government	75	8.2 Categories of Financial Assets and Liabilities	90
2.2 Revenue from Energy Entities	76	8.3 Comparison between Carrying Amount and Net Fair Values of Financial Assets and Liabilities	90
2.3 Other revenue	76	Note 9 Output Group Information	91
Note 3 Expenses	77	Note 10 Events Occurring After Balance Date	91
3.1 Employee Benefits	77	Note 11 Significant Accounting Policies	91
3.2 Depreciation and Amortisation	79	11.1 Objectives and Funding	91
3.3 Supplies and Consumables	79	11.2 Basis of Accounting	92
3.4 Other Expenses	80	11.3 Reporting Entity	92
Note 4 Assets	80	11.4 Functional and Presentation Currency	92
4.1 Receivables	80	11.5 Changes in Accounting Policies	93
4.2 Property, Plant and Equipment	81	11.6 Foreign Currency	94
4.3 Other Assets	82	11.7 Comparative Figures	94
Note 5 Liabilities	83	11.8 Rounding	94
5.1 Payables	83	11.9 Office Taxation	94
5.2 Employee Liabilities	83	11.10 Goods and Services Tax	94
5.3 Superannuation	84		
Note 6 Commitments and Contingencies	85		
6.1 Schedule of Commitments	85		
6.2 Contingent Assets and Liabilities	86		

Note 1 Explanations of Material Variances between Budget and Actual Outcomes

Budget information refers to original estimates as disclosed in the 2023-24 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 %
Employee Benefits	(a)	4 864	4 003	(861)	(18)
Supplies and consumables	(a)	802	1 258	456	57

Notes to Statement of Comprehensive Income variances

- (a) The variance reflects additional costs associated with work undertaken as part of the set-up of the National Preventative Measure under the *OPCAT Implementation Act 2021*. Additional Supplies and consumables costs were incurred than budgeted due to the need to reallocate salary savings (from reduced Employee benefits) to contractors to undertake this work.

1.2 Statement of Financial Position

Budget estimates for the 2023-24 Statement of Financial Position were compiled prior to the completion of the actual outcomes for 2022-23. As a result, the actual variance from the Original Budget estimate will be impacted by the difference between estimated and actual opening balances for 2023-24. The following variance analysis therefore includes major movements between the 30 June 2023 and 30 June 2024 actual balances.

	Note	Budget \$'000	2024 Actual \$'000	2023 Actual \$'000	Budget Variance \$'000	Actual Variance \$'000
Cash and deposits	(a)	286	142	199	(144)	(57)
Employee benefits	(b)	616	866	853	250	13

Notes to Statement of Financial Position variances

- (a) This decrease is primarily due to the actual cash balance as at 30 June 2023 being lower than estimated in the 2023-24 Budget.
- (b) This increase is reflective of the recruitment of staff from other state service agencies with high leave balances, in addition to other increases due to higher leave balances and salary increases.

1.3 Statement of Cash Flows

	Note	Budget \$'000	Actual \$'000	Variance \$'000	Variance %
Employee benefits	(a)	4 336	3 528	(808)	(19)
GST payments	(b)	-	125	125	>100
Supplies and consumables	(a)	802	1 298	(496)	62

Notes to Statement of Cash Flows variances

- (a) The variance reflects additional costs associated with work undertaken as part of the set-up of the National Preventative Measure under the *OPCAT Implementation Act 2021*. Additional Supplies and consumables costs were incurred than budgeted due to the need to reallocate salary savings (from reduced Employee benefits) to contractors to undertake this work.
- (b) This variance reflects increased GST payments to suppliers and the Australian Taxation Office than budgeted.

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.

Section 23 of the *Financial Management Act 2016* 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.

	2024 Budget \$'000	2024 Actual \$'000	2023 Actual \$'000
<i>Continuing operations</i>			
Revenue from Government			
Appropriation revenue – recurrent			
Current year	4 972	4 631	4 097
Total	4 972	4 631	4 097
Revenue from Government – other			
Appropriation Rollover under section 23 of the <i>Financial Management Act 2016</i>	219	232	167
Total	219	232	167
Total revenue from Government	5 191	4 863	4 264

2.2 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.

	2024 \$'000	2023 \$'000
Energy Entities Membership and Complaint Levy Fees	587	369
Total	587	369

2.3 Other revenue

Revenue from other sources is recognised when the Office gains control of the funds and it is probable that the inflow of funds has occurred and can be reliably measured.

	2024 \$'000	2023 \$'000
Training revenue	21	92
Total	21	92

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

	2024 \$'000	2023 \$'000
Wages and salaries	3 454	3 118
Superannuation – defined contribution scheme	482	411
Superannuation – defined benefit scheme	-	14
Other employee expenses	66	105
Total	4 002	3 648

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 12.95 per cent (2022-23: 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 11 per cent (2022-23: 10 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 (2022-23: 3.45 per cent) of salary in respect of employees who are members of contribution schemes.

(b) Remuneration of Key Management Personnel

	Short-term benefits		Long-term benefits			Total \$'000
	Salary \$'000	Other Benefits	Super- annuation \$'000	Leave Benefits \$'000	Termination Benefits \$'000	
2024						
Key management personnel						
Richard Connock, Ombudsman	289	23	32	6	-	350
	289	23	32	6	-	350

2023	Short-term benefits		Long-term benefits			Total \$'000
	Salary \$'000	Other Benefits	Super-annuation \$'000	Leave Benefits \$'000	Termination Benefits \$'000	
Key management personnel						
Richard Connock, Ombudsman	278	13	29	5	-	325
	278	13	29	5	-	325

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 2023-24 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	2024 \$'000	2023 \$'000
Leasehold improvements	14 years	77	72
Total		77	72

3.3 Supplies and Consumables

	2024 \$'000	2023 \$'000
Audit fees – financial audit	17	20
Motor vehicle lease expense	18	11
Rent of premises	263	279
Consultants	496	524
Property services	58	65
Maintenance	5	8
Communications	25	29
Information technology	247	227
Travel and transport	59	55
Advertising and promotion	8	-
Other supplies and consumables	62	76
Total	1 258	1 294

External audit fees payable for the 2023-24 financial statements were \$16,800 (\$16,000 for 2022-23).

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.

	2024 \$'000	2023 \$'000
Salary on costs	30	26
Service Level Agreement – Department of Justice	86	81
Other expenses	90	29
Total	206	136

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.

	2024 \$'000	2023 \$'000
Sales of goods and services	2	-
Tax assets	48	29
Total	50	29
Settled within 12 months	50	29
Total	50	29

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.

(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

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

	2024 \$'000	2023 \$'000
Leasehold Improvements		
At cost	792	792
Less: Accumulated depreciation	(367)	(289)
Total	425	503
Total property, plant and equipment	425	503

(b) Reconciliation of movements

	2024 \$'000	2023 \$'000
Carrying amount at 1 July	503	540
Additions	36	-
Net movement in Work in progress	(36)	35
Depreciation	(77)	(72)
Carrying amount at 30 June	426	503

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.

	2024 \$'000	2023 \$'000
Other current assets		
Prepayments	85	37
Total	85	37
Utilised within 12 months	85	37
Total other assets	85	37

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.

	2024 \$'000	2023 \$'000
Accrued expenses	17	21
Total	17	21
Settled within 12 months	17	21
Total	17	21

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.

	2024 \$'000	2023 \$'000
Accrued salaries	112	92
Annual leave	315	289
Long service leave	439	472
Total	866	853
Settled within 12 months	384	351
Settled in more than 12 months	482	502
Total	866	853

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 Office that are not reflected in the Statement of Financial Position.

	2024 \$'000	2023 \$'000
By type		
<i>Lease Commitments held with Finance-General</i>		
Office accommodation	701	425
Motor vehicle fleet	29	9
<i>Total commitments held with Finance-General</i>	730	434
<i>Other commitments</i>		
Short-term and/or low-value leases	110	51
Other Commitments	67	-
<i>Total other commitments</i>	177	51
<i>Total commitments</i>	907	485
By maturity		
<i>Operating lease commitments</i>		
One year or less	316	220
From one to five years	524	265
More than five years	-	-
<i>Total operating lease commitments</i>	840	485
<i>Other commitments</i>		
One year or less	67	-
From one to five years	-	-
More than five years	-	-
<i>Total other commitments</i>	67	-
Total	907	485

The Operating Lease commitments include buildings, motor vehicles and information technology equipment leases. All amounts shown are inclusive of GST where applicable. 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 2024 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 Specific Purpose Account, 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.

	2024 \$'000	2023 \$'000
Specific Purpose Account balance		
S528 Office of the Ombudsman Operating Account	142	199
Total cash and deposits	142	199

7.2 Reconciliation of Net Result to Net Cash from Operating Activities

	2024 \$'000	2023 \$'000
Net result	(75)	(425)
Depreciation and Amortisation	77	72
Decrease (increase) in Receivables	(21)	27
Decrease (increase) in Prepayments	(48)	(10)
Increase (decrease) in Employee entitlements	13	272
Increase (decrease) in Payables	(4)	13
Net cash from (used by) operating activities	(58)	(51)

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 Offices 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:

	2024 \$'000	2023 \$'000
Receivables	50	29
Total	50	29

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 2024	Not past due \$'000	Past due 1-30 days \$'000	Past due 31-60 days \$'000	Past due 61-90 days \$'000	Total \$'000
Expected credit loss rate (A)	0%	0%	0%	0%	0%
Total gross carrying amount (B)	-	-	-	2	2
Expected credit loss (A x B)	-	-	-	-	-

Expected credit loss analysis of receivables as at 30 June 2023	Not past due \$'000	Past due 1-30 days \$'000	Past due 31-60 days \$'000	Past due 61-90 days \$'000	Total \$'000
Expected credit loss rate (A)	0%	0%	0%	0%	0%
Total gross carrying amount (B)	-	-	-	-	-
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:

2024			
Maturity analysis for financial liabilities	1 Year \$'000	Undiscounted Total \$'000	Carrying Amount \$'000
Financial liabilities			
Payables	17	17	17
Total	17	17	17

2023			
Maturity analysis for financial liabilities	1 Year \$'000	Undiscounted Total \$'000	Carrying Amount \$'000
Financial liabilities			
Payables	21	21	21
Total	21	21	21

8.2 Categories of Financial Assets and Liabilities

	2024 \$'000	2023 \$'000
Financial assets		
Cash and cash equivalents	142	199
Receivables at Amortised cost	50	29
Total	192	228
Financial Liabilities		
Financial liabilities measured at amortised cost	17	21
Total	17	21

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

	Carrying Amount 2024 \$'000	Net Fair Value 2024 \$'000	Carrying Amount 2023 \$'000	Net Fair Value 2023 \$'000
Financial assets				
Cash in Specific Purpose Accounts	142	142	199	199
Receivables	50	50	29	29
Total financial assets	192	192	228	228
Financial liabilities				
Trade creditors	17	17	21	21
Total financial liabilities	17	17	21	21

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 2024.

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 people in custody.

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 on 13 September 2024.

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. Material accounting policy information is consistent with the previous year.

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 has 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. These include: AASB 2021-2 *Amendments to Australian Accounting Standards – Disclosure of Accounting Policies and Definition of Accounting Estimates* – This Standard amends:

- AASB 2021-2 *Amendments to Australian Accounting Standards – Disclosure of Accounting Policies and Definition of Accounting Estimates* – This Standard amends:
 - AASB 7 *Financial Instruments*: Disclosures to clarify that information about measurement bases for financial instruments is expected to be material to an entity's financial statements;
 - AASB 101 *Presentation of Financial Statements*, to require entities to disclose their material accounting policy information rather than their significant accounting policies;
 - AASB 108 *Accounting Policies, Changes in Accounting Estimates and Errors*, to clarify how entities should distinguish changes in accounting policies and changes in accounting estimates;
 - AASB 134 *Interim Financial Reporting*, to identify material accounting policy information as a component of a complete set of financial statements; and
 - AASB Practice Statement 2 *Making Materiality Judgements*, to provide guidance on how to apply the concept of materiality to accounting policy disclosures.
- AASB 2020-6 *Amendments to Australian Accounting Standards – Classification of Liabilities as Current or Non-current* – This Standard amends AASB 101 *Presentation of Financial Statements* to clarify that a liability is classified as non-current if an entity has the right at the end of the reporting period to defer settlement of the liability for at least 12 months after the reporting period. The meaning of settlement of a liability is also clarified in these amendments. The implementation of AASB 2020-6 did not have a material impact on the statements of the Office.
- AASB 17 *Insurance Contracts* – This standard establishes principles for the recognition, measurement, presentation and disclosure of insurance contracts issued. It also requires similar principles to be applied to reinsurance contracts held and investment contracts with discretionary participation features issued. The objective is to ensure that entities provide relevant information in a way that faithfully represents those contracts. This information gives a basis for users of financial statements to assess the effect that contracts within the scope of AASB 17 have on the financial position, financial performance and cash flows of the entity. The implementation of AASB 17 did not have a material impact on the statements of the Office.

(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. 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.



Ombudsman
Tasmania

Independent Auditor's 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 2024, statement 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 and the statement of certification signed by the Ombudsman.

In my opinion, the accompanying financial statements:

- (a) present fairly, in all material respects, the financial position of the Office as at 30 June 2024 and its financial performance and its cash flows for the year then ended
- (b) is 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.

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

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

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* and for 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, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the Office's operations will cease as a result of an administrative restructure or the Ombudsman to cease operations, or has no realistic alternative but to do so.

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.



Stephen Morrison
Assistant Auditor-General
Delegate of the Auditor-General
Tasmanian Audit Office

16 September 2024
Hobart



Ombudsman
Tasmania

