



# Annual Report

**Commissioner for** whistleblowers

**Information** and records

**Public Interest Disclosures**

## History

In 2003, following the earlier passing of the *Information Act*, the independent office of the NT Information Commissioner opened its doors and began accepting complaints from individuals who wanted information from public sector organisations or who felt their privacy had been breached by one of those organisations. In 2009, the passing of the *Public Interest Disclosure Act* established the independent Office of the Commissioner for Public Interest Disclosures at the same premises. Brenda Monaghan is the current Commissioner for both offices. This is the fifth Annual Report of the combined Office and the eleventh of FOI and privacy law in the NT.

## Legislation

**The *Information Act*** provides for reasonable public access to government information, the responsible collection, correction and handling of personal information and the requirement for appropriate records and archives management. The Act is intended to strike a balance between competing interests of openness & transparency and the legitimate protection of some government information, including personal information about individuals.

The Commissioner's powers include:

- Dealing with Freedom of Information and privacy complaints, including the making of binding orders and compensation payments of up to \$60,000;
- Commenting on the privacy implications of new legislation and new government initiatives;
- Conducting audits of records held by public sector organisations;
- Granting an Authorisation on request by public sector organisations to collect, use or disclose personal information in a manner that would otherwise contravene an Information Privacy Principle;
- Assisting with the development of Codes of Practice and making recommendations to the Minister regarding the approval of a Code of Practice; and
- Educating the public and public officers about FOI and privacy.

**The *Public Interest Disclosure Act*** provides for the disclosure and investigation of serious improper conduct by NT public officers and NT public bodies and the protection of disclosers from reprisal action being taken against them.

The Commissioner's powers include:

- Investigating complaints of serious improper conduct in NT public bodies;
- Supporting and protecting disclosers by prosecuting those committing acts of reprisal;
- Strong coercive powers to inspect certain premises, require the production of documents and the attendance of a person for examination before the Commissioner;
- Reporting findings of investigations to the responsible authority, and making recommendations for action to be taken as a result of those findings; and
- Discretion to make a public report if recommendations are not complied with.



30 September 2014

The Hon John Elferink MLA  
Attorney-General and Minister for Justice  
Parliament House  
DARWIN NT 0800

Dear Minister

Pursuant to section 98 of the *Information Act* and section 48 of the *Public Interest Disclosure Act*, please find attached the Annual Report on the operations of the Office of the Information Commissioner and the Commissioner for Public Interest Disclosures for the period 1 July 2013 to 30 June 2014.

Yours sincerely

A handwritten signature in black ink, appearing to be "B. Monaghan", written in a cursive style.

Brenda Monaghan  
Commissioner, Information and Public Interest Disclosures

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## Message from the Commissioner

I am pleased to present the 2013/14 Annual Report of the Office of the Commissioner, Information & Public Interest Disclosures. The report details the performance highlights and the significant results achieved during the reporting period.

The Office received 65 complaints alleging improper conduct in a variety of public bodies from remote shire councils to large government departments. As in previous years, a small number of those matters alleged serious acts of corruption by public officers. Over the past 2 years, 10 such matters have been referred to Police for them to investigate the likelihood of a successful criminal prosecution against one or more individuals. To date, 3 individuals have been convicted of criminal offences including Breach of Official Secrets, Stealing, Obtaining Benefit by Deception and False Accounting. These prosecutions would not have been possible without disclosers (i.e. whistleblowers) coming forward to complain about wrongdoing within public bodies. Many were reluctant to approach Police or their senior management directly to complain but the practical support and legislative protections that this Office provided gave them confidence to do the right thing rather than ignore wrongdoing.



After over four years as Commissioner, I have seen firsthand the measurable benefit for the Territory in maintaining a Public Interest Disclosure Office. The Government's support for this Office in the 2014/15 budget is greatly appreciated as the budget increase has enabled the creation of 2 permanent investigator positions. This provides staff with security of employment and in return, we reap the benefits of retaining and growing our corporate knowledge and expertise.

I once again commend those Chief Executives who have led the way, assisting us with our investigations and working with us on reforms that will make valuable improvements to corporate governance and organisational culture.

The other arm of this Office (FOI and Privacy) continues to provide quality service in complaint resolution, policy advice and education. The importance of a strong commitment to privacy protection in the public sector cannot be under-estimated. Equally important is the principle that government information is a community resource to be utilised in the public interest unless there is good reason to keep it confidential. These are fundamental principles that continue to guide our work.

Although our primary objective must always be resolving complaints, we continue to work together with government departments on several initiatives that are aimed at identifying and addressing weaknesses in information management systems. We are excited by one specific initiative and that is our launch of a Privacy Audit. Four large government departments have been required to comply with the audit which is aimed at identifying and addressing weaknesses in their *Information Act* compliance. All other public bodies have been provided with a self-audit tool kit and have been encouraged to undertake the audit voluntarily. We have also continued to deliver a range of educational programs, including highly regarded training to Information Officers across government to ensure that requests for information are dealt with confidently

and accurately.

Once again, the most important message for me to convey in this report is my thanks to my staff for their high level of dedication, versatility and expertise throughout 2013/14. It has been a busy, challenging but very rewarding year for us all.

A handwritten signature in black ink, appearing to read 'B. Monaghan', with a stylized flourish at the end.

Brenda Monaghan



## Highlights during 2013-14

The joint Office of the Commissioner, Information and Public Interest Disclosures has worked hard to achieve the best possible results within resources.

Highlights for the year include:

### **Ongoing resources welcomed.**

The announcement in the 2014/15 Budget of a \$.3m ongoing budget increase for our Office was a definite highlight. It follows on from an earlier public commitment by the Attorney-General to address any corruption in the public sector and to protect whistleblowers.

### **Strong success in implementation of recommendations.**

The Office has continued to work with Chief Executives wherever possible to make meaningful recommendations to address improper conduct and to drive cultural change. As a result of this collaborative approach, we have seen strong compliance with recommendations made by this Office during the reporting period.

### **Practical guidance on FOI, privacy and preventing improper conduct.**

The practical guidance provided by this Office to public officers via regular training sessions and forums has been well received. We have also recently developed tools to assist in the education, training and audit functions of public bodies including:

- a privacy self-audit kit;
- a video on privacy principles for use in induction training; and
- a video for public bodies on the importance of 'privacy by design'.

We have also participated in community events such as *Privacy Awareness Week* and have produced educational material to inform the public about mobile apps and privacy issues.





## PUBLIC INTEREST DISCLOSURES

# Public Interest Disclosures – Case Studies

## Introduction

The Office investigates complaints of ‘Improper conduct’ under the *Public Interest Disclosure Act*. This definition includes conduct which would constitute a criminal offence or provide reasonable grounds for terminating the employment of the public officer because they are:

- seeking or accepting a bribe or other improper inducement
- involved in any other form of dishonesty
- showing inappropriate bias
- guilty of a breach of public trust
- misusing public information

‘Improper conduct’ also includes:

- substantial misuse or mismanagement of public resources
- substantial risk to public health or safety
- substantial risk to the environment
- substantial maladministration that specifically, substantially and adversely affects someone’s interests

whether or not the conduct constitutes a criminal offence or would provide reasonable grounds for terminating the services of the public officer. A ‘substantial’ risk or misuse means it must be ‘significant or considerable’.

‘Improper conduct’ also includes an act of reprisal (e.g. sacking a whistleblower because of their disclosure) or a conspiracy or attempt to engage in improper conduct that constitutes a criminal offence.

A variety of allegations of improper conduct by public officers and public bodies are made to this Office from a variety of sources. Some disclosers wish to remain anonymous while others who are concerned for their jobs or their relationships within or with an organisation gain considerable support from the professional advice and assistance provided by our staff.

If an allegation involves less serious conduct or matters outside our jurisdiction such as workplace grievances, we refer the complainant to the appropriate agency. Where matters involve serious improper conduct that would be best dealt with by another referral body, then we work towards having the matter referred with the discloser’s support. The remaining disclosures are dealt with in-house. If it becomes evident during an investigation that criminal activity has occurred, then the matter will be referred to Police. Some matters involve breaches by a public officer of the NT Public Sector Code of Conduct and require disciplinary action to be considered. Regularly, the investigation highlights deficiencies in internal management of the public body involved that can be addressed through recommendations made by the Commissioner. If these recommendations are satisfactorily complied with, then there will be no public report tabled through the Legislative Assembly.

## Case studies

Below are several de-identified examples which show some of the matters this Office has investigated.

### Matter 1 – Opportunistic Misconduct

Most misconduct in public bodies is opportunistic. The tighter the oversight controls, the less opportunity there is for misconduct to occur. One investigation related to concerns that some public officers within a work group had:

- Purchased equipment for personal use on the public body's credit card.
- Collaborated with a supplier to inflate the cost price of goods and services provided to the public body with the additional 'credit' used to purchase property for themselves.
- Stolen property belonging to the public body including electrical items.
- Utilised the public body's items for personal use including when on leave, and
- Manipulated the public body's leave and overtime records to increase their entitlements.

After an initial assessment of available evidence, this matter was deemed to contain elements of criminality and was formally referred to the Commissioner of Police for investigation of alleged criminal conduct. Further discussions took place with the relevant Chief Executive to ensure that satisfactory measures were taken to prevent any future misconduct of the types alleged.

### Matter 2 – Chasing Rabbits

Investigations into allegations of fraud and non-compliance are very difficult when records are poorly maintained. During the year, this Office completed an investigation into allegations that public officers improperly used the public body's credit account at a remote store and allowed other people to do likewise. An examination of invoices provided by the public body showed that over a period of 7 months, in excess of \$100,000 was spent at the local store by various people – many of whom were unable to be identified. It was questionable whether many of the purchases were legitimate public body expenses.

What also became clear during the investigation was that most of the questionable purchases resulted from a generally held belief that they were 'condoned' practices. The investigation also disclosed a pattern of poor record-keeping within the work unit and a failure to comply with the financial and procurement processes and policies of the public body. This meant that a more detailed forensic investigation into possible improper or criminal conduct by individuals was unlikely to be successful.

The Chief Executive provided full support and assistance to the investigation and, in consultation with the Commissioner, took immediate steps to address business management risks within the work unit and to require compliance with normal government and accounting practices. This included closing the credit account, improving business management within the work unit and reviewing the adequacy of relevant legislative provisions, policies and procedures. The public body also established an Audit and Risk Committee with the power to oversight the operations of the unit.

### Matter 3 – Small Town Challenges

This Office investigated an allegation that Mr X, a procurement officer in a small town, asked a contractor for a 'gift' (a power tool) and suggested that the contractor add the purchase cost into a quotation for government work that Mr X would then approve. Mr X had provided government work to this contractor on several occasions in the past and they had a personal friendship as well as a

work relationship. The contractor alleged that the relationship soured when he refused to provide the gift and Mr X awarded the work to another more expensive contractor. Mr X denied the allegation.

As there were no witnesses or corroboration regarding the alleged 'gift' conversation, the complaint was not substantiated. The investigation did however uncover the conflict of interest between Mr X and the local contractor that should have been disclosed and properly managed. Mr X and others interviewed seemed to have only a vague understanding of their obligations to avoid or properly manage conflict of interest situations when arranging contracts on behalf of the public body.

The reality for procurement officers in small towns is that they will have personal relationships with contractors from time to time. These must be managed properly and it is vital that public bodies provide their staff with proper guidance and training on these issues. The relevant Chief Executive in this matter confirmed that a review of the procurement framework and staff training would take place to ensure that Mr X and all staff members were properly trained about procurement rules and policies regarding conflicts of interest and gifts.

### **Matter 4 – A Matter for Referral**

This office received a complaint that a public officer who volunteered for a community organisation in her own time had wrongly retained grant monies for her own purposes and had submitted false records.

As the allegations were not related to the performance of the officer's official functions, it could not be investigated by this Office and, with the consent of the discloser, it was referred to Police.

### **Matter 5 – Protecting Complainants**

This Office investigated allegations that B, a public officer, was threatened with physical violence by a workmate called C, when he made an internal complaint alleging that C had knowingly committed an offence against the *Liquor Act* by transporting alcohol into an Aboriginal Community (a 'protected area') without a permit. C denied any wrong doing. B's reason for coming to our office was his concern that the public body was not taking C's threats against him seriously and he wanted the reprisal protections offered by the *Public Interest Disclosure Act*. The matter was assessed as a public interest disclosure but after discussions with the Chief Executive, an investigation was deferred pending the outcome of an internal disciplinary process against C. Arrangements were made in the workplace to minimise any risk to B during this internal process and steps were taken by B to obtain a court order to protect him. C resigned before the internal disciplinary process was completed.

The Chief Executive agreed with the Commissioner's recommendation to review staff training for those travelling to remote areas, to ensure they were aware of their obligations under federal Stronger Futures legislation and the *Liquor Act*.

### **Matter 6 – A Breakdown in Relationships**

A finding of 'improper conduct' under the *Public Interest Disclosure Act* is not lightly made. Such conduct by a public officer, for example, must be serious enough to warrant a termination of their employment or a criminal prosecution. In this matter, despite mistakes being made by public officers and despite some questionable conduct, a finding of 'improper conduct' could not be sustained on the evidence. The allegations were that over a number of years, public officers had displayed an inappropriate bias towards a contractor resulting in his company missing out on lucrative contracts and being unofficially 'black-listed' within his industry. Further allegations were

made regarding bullying and harassment of staff and unfair assessments of the work done by the company. The public body and its officers strongly denied the allegations.

After a lengthy investigation, it was determined that the evidence in its totality did not support findings of 'improper conduct' against the public body or its officers. Some of the early complaints of bias were unfounded. Other allegations of bias in tender assessments, which initially looked concerning, were ultimately found to be justifiable decisions. Although mistakes were made by public officers during these tender assessments, none of them were found to be the reason why the company's tender submissions were unsuccessful. Instead, the Commissioner found that there were inadequacies in the tender documents submitted by the company that ultimately meant they were not successful.

As regards the allegations of bullying by public officers at various work sites, poor or conflicting evidence about several alleged incidents meant that no conclusion could be reached that 'improper conduct' had occurred. The Commissioner did conclude however that the aggressive management style employed on some projects was of questionable value and had significantly contributed to the breakdown of relationship between the contractor and his staff and the public body.

The Chief Executive intends to address the concerns identified through a review and implementation of appropriate staff training and supervision in all relevant areas.

## **Matter 7 – Good Compliance is a Shield against False Allegations**

Government regulations and policies are not just there to catch the wrongdoers. They also protect good public servants when false allegations are made. One such example was seen in an investigation by this office into allegations that D, a public officer involved in procurement in a remote area, had demonstrated inappropriate bias against a contractor resulting in his company missing out on several large government contracts. It was also alleged that D was involved in a secret personal relationship with a contractor and was displaying bias in giving work to that contractor.

As part of the investigation, a number of tender assessments and other documents were examined and tender panel members were interviewed. The investigation found no improper conduct by D. In fact, D had been fair in his assessment of the tender submissions and was perhaps harshly viewed because he was trying to improve standards in the procurement process. The written records of his work activities and meetings were well maintained and substantiated his oral evidence. The investigation concluded that there was no improper relationship with the other contractor as alleged.

The discloser accepted the finding that there was no bias against him but that in fact, his tender submissions were below the standard required. He was advised to seek professional assistance when writing future tender submissions.

There are two lessons to be learned from this investigation. The first is that good record keeping and compliance with the rules can protect a public officer from a false allegation. The second lesson is that a remote public officer who is trying to maintain or improve standards can easily feel isolated and unsupported in their work. The Chief Executive was concerned by this reality and acknowledged the need to provide further support for officers in remote areas, particularly for those dealing with procurement issues.

## **Matter 8 – Clear Rules and Good Training Required**

Sometimes, what looks like 'improper conduct' turns out to be well-intentioned actions based on an ignorance of the rules. This Office investigated an allegation about a couple who during their employment with a public body, set up a separate business and sold essential products to their

employer for many years. These products were not available in the Northern Territory at the time and the couple had received permission to engage in 'outside employment' from the then Chief Executive during the first year of operation of their company. No further applications for 'outside employment' were made and on occasions, one of the public officers was in fact approving the purchase of the items from their own company. When interviewed, the couple stated that their arrangement was not a secret. They were unaware of any requirement to formally disclose and manage conflicts of interest or to annually receive permission for 'outside employment' from their employer. As the items were essential and the amounts involved relatively small, they had felt that they were 'providing an essential service'. That arrangement had since ceased. As a result of the investigation the Chief Executive agreed to review the 'outside employment' policy and to provide training on managing conflicts of interest within the division.

## **Matter 9 – Public Health Concern Investigated**

This Office completed an investigation into an allegation that a public officer had improperly approved a non-conforming septic waste system for a light industrial development causing a risk to the environment and public health if the system failed. There was no suspicion that the public officer had received any benefit from approving the modified system, rather that the officer had acted beyond his power in granting the approval.

The interest of this Office was satisfied when the public body provided an independent hydrologist report that found no evidence of any structural or public health concerns surrounding the modified system. The public body committed to conduct periodic inspections of the property in the future, to review the effluent disposal code of practice and to ensure its officers were properly trained regarding their powers and responsibilities.

## **Matter 10 – A Positive Result for All**

This Office investigated claims that a public body was over-reporting or dummy-reporting remote child welfare matters in order to obtain additional funding from the Commonwealth Government. Additional allegations were raised that because of poor practices within the public body, vulnerable children were not being protected.

After consultation with the Office of the Children's Commissioner and the Chief Executive, an independent consultant was engaged to conduct a thorough and objective investigation into the concerns raised, including an audit of the suspect transactions on the Activity Report to the Commonwealth.

The investigation found that there were gaps in data recording and information management processes relating to the program. It was also noted that at the time there was no funding payment associated with activity reporting so the allegations of 'dummy' reporting to obtain extra funding were unfounded. All referrals were found to be valid referrals and all cases concerning vulnerable children were in fact adequately examined.

The Commissioner recommended that the public body improve its processes for mandatory reporting in remote areas and improve the record keeping and security of the reports. It was further recommended that training for officers in remote areas be improved, including an update to the supervision policy and guidelines for remote area staff. The public body has complied with these recommendations.



# Public Interest Disclosures - Performance measures

## Introduction

All public interest disclosures received by this Office are subjected to a rigorous initial assessment. At the completion of this process, a decision is made about the proposed course of action to be adopted: investigation, referral or rejection.

For the purpose of performance reporting, all allegations containing ‘public interest information’ that require assessment are classified as ‘public interest disclosures’ – including those that are ultimately assessed as not falling within that category. This does not include complaints that can be quickly and easily completed. Public interest information is defined in the Act as information that, if true, would tend to show a public officer or public body has engaged, is engaging, or intends to engage, in improper conduct.

Budget Paper No 3 sets performance measures for the Office for 2013-14 relating to quantity, quality and timeliness. The summary below details the performance of this Office over the reporting period.

## Quantity – Public Interest Disclosures received

### Quantity remains high

The number of disclosures handled by this Office during the reporting period has remained consistent with previous years. A total of 65 disclosures were handled this year.

Performance Measure	Previous Year	Current Year		Targets
	2012-13 Actual	2013-14 Estimate	2013-14 Actual	2014-15 Estimate
Public interest disclosures	66	60	65*	60

\*Of the 65 disclosures handled, 34 were new complaints and the remaining 31 were partly investigated matters carried over from the previous year.

## Timeliness – Public Interest Disclosures resolved or reported

We aim to resolve 70% of complaints within 6 months. During this reporting period, only 50% of disclosure files were completed within a six-month timeframe compared with 68% during 2012/13. The main reason for this lower percentage is that a concerted effort was made this year to prioritise completion of more lengthy and complex investigations that took longer than six months to complete.

Performance Measures		13-14 Estimate	13-14 Actual	14-15 Estimate
Timeliness	Disclosures resolved or investigation reports presented to the responsible authority within six months	70%	50%	70%



## Quantity and quality – awareness and training

An important objective for this Office is the education of disclosers, public officers and public bodies regarding their rights and obligations under the Act.

The Office continued to provide both public awareness sessions for the broader community and training tailored to the specific concerns of various public bodies. Face-to-face training sessions took place in Darwin and Palmerston with a total of 158 participants from a variety of public bodies including government departments, municipal and shire councils. The training sessions, which were specifically tailored to the needs of the audience, were well received. Although it is always our aim to provide face to face training opportunities in centres other than Darwin and Palmerston, this was not possible during the reporting period. Online training was available for those outside of Darwin.

The Office maintains an informative website including user friendly training modules for public officers and disclosers at [www.blowthewhistle.nt.gov.au](http://www.blowthewhistle.nt.gov.au). These interactive training modules enable individuals to increase their knowledge of the Act and the functions of this Office. A total 61 separate training modules were successfully completed on the website over the reporting period. In the first 3 years, there was a far greater use of this on-line training package. The reduction in the past 2 years may be for a number of reasons including the fact that many public officers have now completed the online training. The estimate of 400 persons to be trained each reporting period may need to be reviewed.

The Office also provides email and telephone advice via freecall 1800 250 918.

Performance Measures		2013-2014 Estimate	2013-2014 Actual	2014-2015 Estimate
Quantity	Awareness and training Face-to-face presentations	10	7	10
	Number of participants – including online training modules	400	219	400
Quality	Participant satisfaction *	90%	100%	90%

\* for face to face training

## Reporting requirements under section 48 of the Act

Section 48 of the Act requires the Commissioner to include in the Annual Report details of performance with respect to a number of functions. The Commissioner's response is set out below.

### The number and kinds of Public Interest Disclosures made

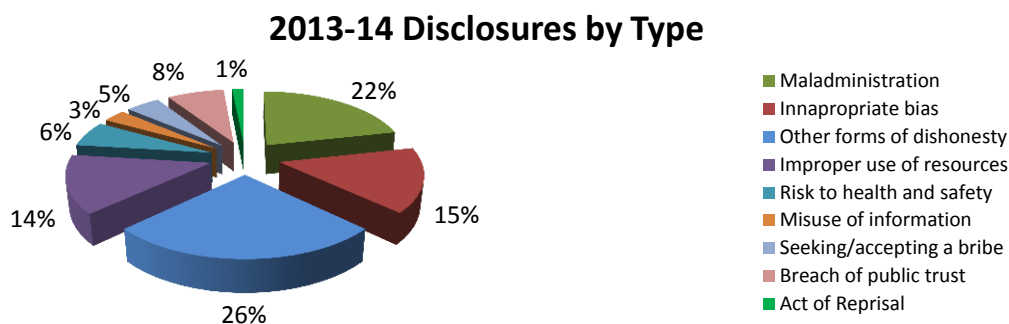
During 2013-14, this Office handled 65 disclosure complaints with 34 being new disclosures alleging many categories of improper conduct. Most involved one specific act of improper conduct but a few complained of several different acts by several public officers. Where wrongdoing has been supported or ignored by senior management, the improper conduct is extended to the whole organisation.

Over 80% of the disclosures related to alleged incidents that were either ongoing or occurring within 12 months prior to the disclosure being made. None of these matters were referred to the Commissioner by responsible Chief Executives (who are required to refer any public interest disclosure made to them within 14 days). Last financial year, 8 matters were referred by Chief Executives. This is an interesting change and one that will be discussed with Chief Executives and monitored during 2014/15.

## What the numbers tell us

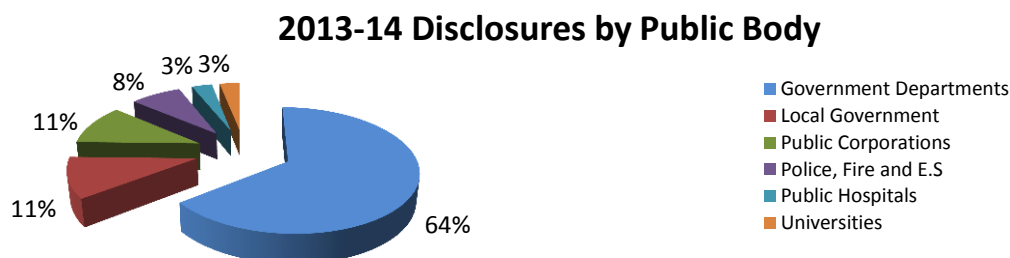
### Disclosures – by type

Of the disclosures received during the reporting period, the principal allegations of improper conduct are set out in the diagram below. The types of allegations fall into similar categories to those received in previous years.



### Disclosures – by public body

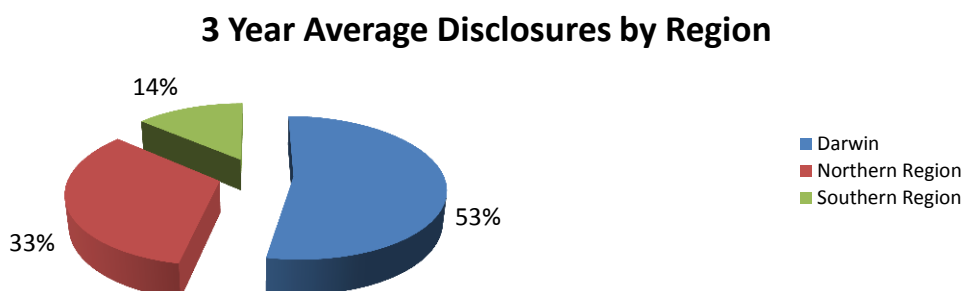
The diagram below provides a breakdown of the public bodies about which public interest disclosures were made in the reporting period. Most disclosures relate to NT Government Departments, a result that would be expected as they are the biggest employer.



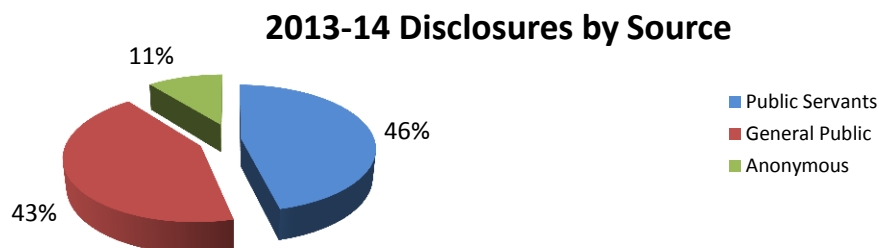
### Disclosures – by region

As expected, more allegations were received about public bodies/officers in the Darwin region. The Office attributes this to the higher number of public bodies and government departments located in Darwin and a greater knowledge of the existence of this Office.

During the next financial year, more effort will be directed to community education in regional and remote areas. With regard to the rural areas, more complaints were about public bodies/officers in the Northern, rather than the Southern Region. These figures are generally consistent with previous years.

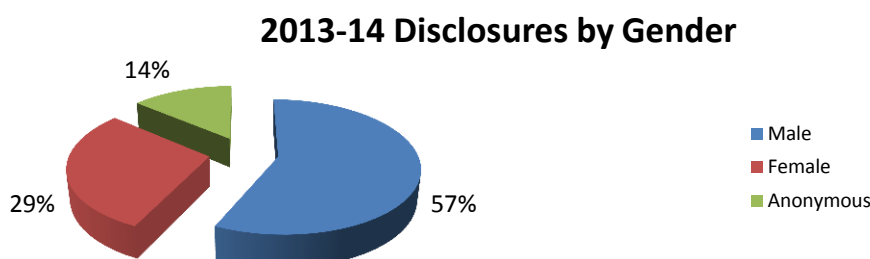


## Where are the allegations coming from?



Allegations of improper conduct were received from both public officers and the general public. There was a significant increase in the number of anonymous complaints filed. This is not unexpected as most were received following the release of a new online complaints form where it is easier for the complainant to remain anonymous if they prefer.

## Disclosure – by gender



Of the total number of disclosures handled during the reporting period, 57% were made by men, 29% by women, and 14% were anonymous complaints. Although the number of anonymous complaints has dramatically increased with the option for complainants to make an online complaint, most anonymous disclosers identified themselves once they felt it was safe to do so. The percentage of male complainant compared to females appears to be similar to previous years.

## Public Interest Disclosures referred by the Speaker

In circumstances where improper conduct relates to a politician who is a member of the Northern Territory Legislative Assembly (an MLA), then the disclosure must be made to the Speaker of the Legislative Assembly who may refer the matter to the Commissioner for investigation under section 12(1) of the Act. In the 2013-2014 reporting period, the Commissioner received no public interest disclosures from the Speaker of the Legislative Assembly.

## Number of Public Interest Disclosures resolved

As at 30 June 2014, 65 disclosure files had been handled during the reporting period.

Of those matters, 46 disclosure files were resolved as follows:

- 30 were assessed and ultimately rejected by the Commissioner on the grounds that they were not matters attracting the protections of the Act;
- 7 were accepted as public interest disclosures attracting the protections of the Act and were investigated and completed;
- 6 were the subject of preliminary investigations but were ultimately referred to another body for further investigation; and
- 3 were amalgamated into an ongoing investigation due to similarities with the information received and the target public officers.

The remaining 19 disclosures were still being assessed or investigated as follows;

- 13 were still in the assessment stage; and
- 6 were under investigation.

## Referral of investigations to other bodies

Section 22 of the Act allows the Commissioner, when it is deemed appropriate to do so, to refer public interest disclosures to the Ombudsman, the Auditor-General, the Commissioner for Public Employment, the Commissioner of Police, the Children's Commissioner or NT WorkSafe. The referral process is only undertaken after the discloser has been advised of the referral and has had his or her comments considered by the Commissioner. Once referred, the receiving body exercises its own powers of investigation and the Act no longer applies to the referred investigation. The discloser however, retains his or her protections against reprisal under the Act.

Throughout the reporting period, the Commissioner made one referral to the Commissioner of Police pursuant to section 22 of the Act. A second matter was referred to Police informally for them to consider whether or not there was sufficient likelihood of a successful prosecution to warrant a formal referral. The answer was no. As a result, a formal referral was not made and the investigation of this matter and a number of other allegations of improper conduct are proceeding under the *Public Interest Disclosure Act*.

Some allegations received were not assessed as falling within the definition of "improper conduct" but were important enough to require investigation. These matters were either referred to the Chief Executive of the public body in question or to another appropriate body. This step was only taken with the discloser's consent.

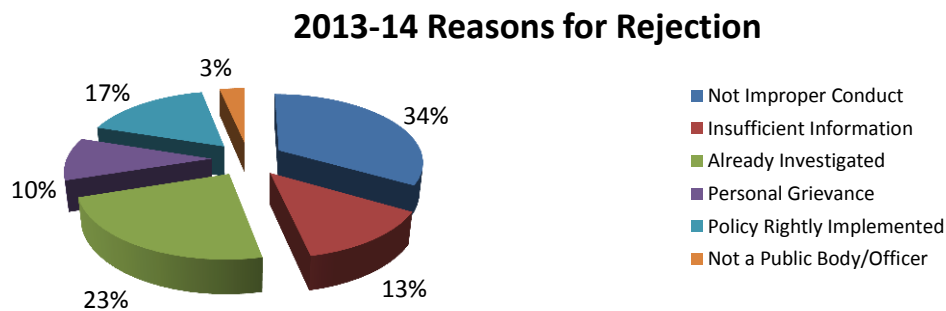
Throughout the reporting period, the Commissioner used this process to refer:

- 2 matters to the Commissioner for Public Employment;
- 1 matter to the Health and Community Complaints Commissioner;
- 1 matter to the Chief Executive Officer for the Department of Health; and
- 1 matter to the Commissioner of Police.

## Public Interest Disclosures not investigated

The assessment stage of any complaint is an important one. Some disclosure complaints can be quickly dealt if, for example, they clearly fall outside the jurisdiction of the Office. Many others take considerable work before a decision can be made as to whether or not they should be investigated. Of the 30 disclosures ultimately rejected by the Commissioner:

- 34% were assessed as not involving improper conduct as defined by the Act;
- 13% were unable to be assessed due to insufficient information being provided or obtainable;
- 23% had already been adequately investigated;
- 10% were assessed as personal or employment related grievances;
- 17% were assessed as allegations about policy decisions of a public body or public officer that they were entitled to make; and
- 3% were outside the jurisdiction of this Office as the alleged improper conduct did not concern a public officer or public body.



These figures are generally consistent with the trend in previous years.

### Reports under section 31(1)(a) of the Act

After completing an investigation, the Commissioner must report the findings to each responsible authority for the public body or public officer to whom the investigation relates. The Commissioner may (except in the case of a referred MLA investigation) make recommendations for action to be taken as a result of the findings.

Seven section 31(1)(a) reports containing recommendations were made during the reporting period and it is pleasing to note that all recommendations are to date being complied with in the agreed time period.

### Reports under section 32(2) of the Act

The Commissioner may make a public report on an investigation if it appears to the Commissioner that insufficient steps have been taken within a reasonable time to give effect to any recommendations for action made by the Commissioner. The report is provided to the Minister and must be tabled within six sitting days after the Minister receives it.

There have been no public reports made to the Minister during the reporting period. The reason for this is that Chief Executives have continued to comply with the recommendations of the Commissioner – a commendable result.

### Status of current disclosures

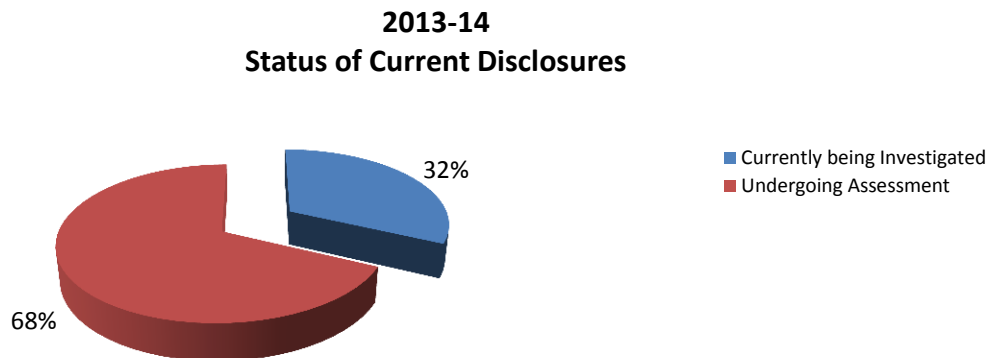
As at 30 June 2014, there were 19 public interest disclosure complaints that were still in the process of being assessed, investigated or finalised. This number included several major investigations into allegations of improper conduct such as:

- Conflicts of interest and inappropriate bias in tendering processes and in recruitment;
- Breaches of public trust by public officers;
- Theft of public assets;

- An allegation of reprisal action because of a disclosure of improper conduct;
- Breaches of public trust by a local government council; and
- Substantial maladministration and substantial misuse of public resources.

The status of these complaints can be summarised as follows:

- 13 are undergoing detailed assessment before a decision is made regarding their status; and
- 6 have been accepted as public interest disclosures and are still undergoing investigation with 3 of those matters near completion.



These matters cannot be reported on until they are completed during 2014/15.

The Office has established Categories of Investigation (including reporting) as follows:

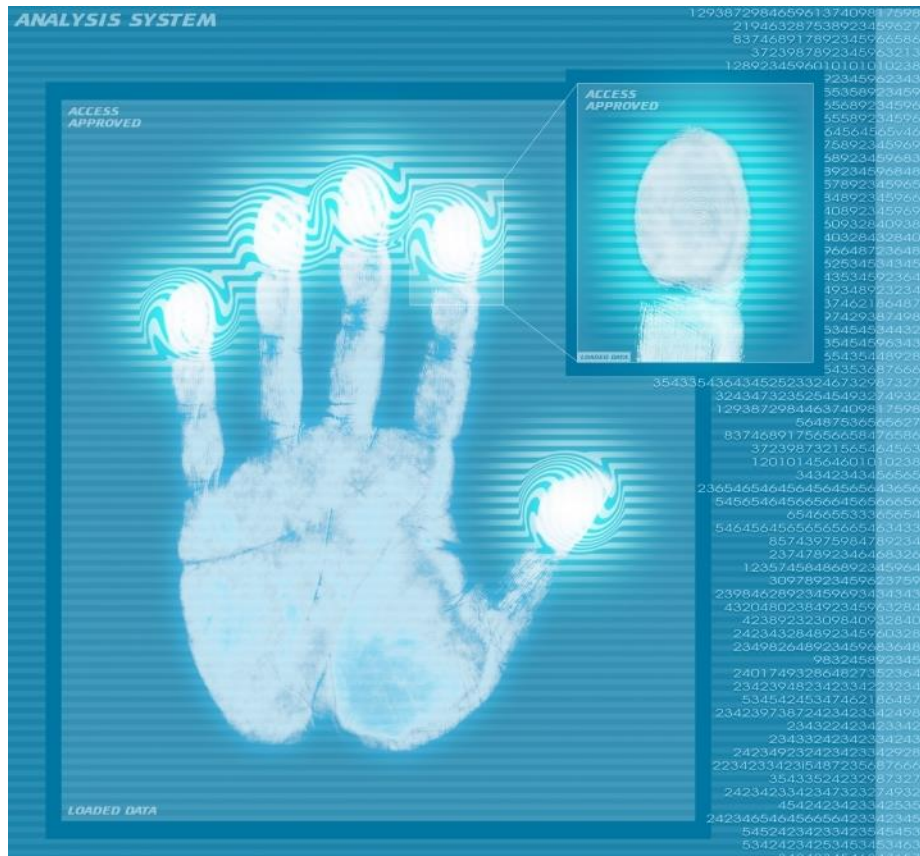
- Level 3 Investigation – estimated to occupy an investigator full-time for a period exceeding 160 hours
- Level 2 Investigation – estimated to occupy an investigator full-time for a period of 80 to 160 hours
- Level 1 Investigation – estimated to occupy an investigator full-time for a period not exceeding 80 hours

The 6 current investigations have been classified under these criteria as follows:

Level 3 Investigations	Level 2 Investigations	Level 1 Investigations
3	2	1

Of the Level 3 Investigations, all are serious and complex and will require several months and significant resources to investigate. In reality, an investigator must juggle several investigations and other commitments at one time and must prioritise the most urgent matters. This means that there are unavoidable delays in some matters being assessed or investigated.

Of the 13 remaining matters awaiting assessment, most appear to fall within Level 1 and Level 2. This remains a significant workload for a small team and the additional ongoing resources provided in the 2014/15 Budget are appreciated.



# FREEDOM OF INFORMATION AND PRIVACY



## Freedom of Information

The Commissioner can accept complaints from people who are unhappy with the response of a public sector organisation to their freedom of information request. The person must have sought internal review with the organisation before complaining to the Commissioner. Complaints can also come from third parties who object to release of information under freedom of information. The guideline [Our Complaints Process](#)<sup>1</sup> explains what happens when someone makes a complaint.

This year, the Office received 22 new complaints, handling a total of 30 complaints in 2013-14. The vast majority of these new complaints were lodged in the second half of the reporting period.

### Number of FOI complaints and their outcome

FOI Complaints to the Information Commissioner 2013-14								
PSO	Lodged*	Not accepted	Resolved informally	Prima Facie	Mediation	Hearing	Withdrawn	Open at year end
AGD	1 (0)	1	1					0
DAM	1 (0)							1
DCIS	1 (0)							1
DCF	1 (0)							1
DCM	0 (1)			1				0
DoB	1 (0)			1				0
DoE	1 (3)						3	1
DoHe	14 (1)		1	2	1			13
MSHR	1 (0)							1
NTDCS	1 (0)							1
PFES	0 (2)	1	1	1	1			0
TIO	0 (1)		1	1	1		1	0
<b>Total</b>	<b>22 (8)*</b>	<b>2</b>	<b>4</b>	<b>6</b>	<b>3</b>	<b>0</b>	<b>4</b>	<b>19</b>

\* figures (in brackets) are complaints carried over from the previous year

## Case studies

The complaints handled during this reporting period raised a number of technical legal questions, such as: what is the scope of the exclusion of tribunals from the *Information Act*, and what is the scope of the exemption for client legal privilege? Other matters underscored the need for parties to be ready to produce evidence that could establish the legal tests. The Commissioner continues to play a significant role in assisting both parties to understand the law and legal process in order to exercise their rights. This reporting period also saw the first appeal to the Supreme Court in this jurisdiction, which resulted in the court upholding the Information Commissioner's decision.

### Matter 1 – Conciliation process exempt from *Information Act*

The Information Commissioner can only deal with matters that fall within the jurisdiction provided to her in the *Information Act*. In this matter, the Complainant had previously made a claim of discrimination to the Anti-Discrimination Commission ('ADC'). This claim was resolved through a conciliation process conducted by the ADC. The Complainant made an FOI application to the ADC

<sup>1</sup> Available at [www.infocomm.nt.gov.au](http://www.infocomm.nt.gov.au)

for a copy of the conciliator's notes. The ADC declined to provide a copy on the basis that it was a tribunal and its complaints resolution procedure was a decision making function which was exempt from the *Information Act*. The Complainant made a complaint to the Information Commissioner. The Information Commissioner accepted the complaint, but after investigation, agreed with the ADC that she had no jurisdiction to deal with it and dismissed the complaint. The Complainant then appealed to the Supreme Court of the Northern Territory.

Kelly J upheld the Information Commissioner's decision, finding that there was no doubt the ADC was a tribunal. Her Honour noted that 'ordinarily one would not refer to a mediation or a conciliation as a decision-making function of the mediator or conciliator' but that the particular wording of the *Anti-Discrimination Act* was in this case significant. It required the ADC to endeavour to resolve the matter by a combination of processes, including conciliation which could be conducted at any stage, even during a hearing. Her Honour continued: 'In those circumstances, it would be artificial to separate the activities involved in conciliation from those involved in the rest of the decision making process'. The full text of the decision can be found on the NT Supreme Court website under the case name:

***The Commissioner continues to play a significant role in assisting parties to understand the law and legal process in order to exercise their rights.***

*Kowcun v Brenda Monaghan, information Commissioner & Anor* [2013] NTSC 57.

## **Matter 2 – 'Common interest privilege'**

An applicant sought to access information about her relative, who she believed had made complaints about her to the NT Government. The NT Government had collected the information in the course of an investigation into a welfare matter, and with a view to potential ongoing litigation. The NT Government sought the views of the relative, who objected to release of the information. The NT Government considered the objection and decided it was still appropriate to release the information to the applicant. The relative then lodged a third party complaint with the Information Commissioner, claiming the information was exempt under legal professional privilege (now known as client legal privilege) because it was covered by 'common interest privilege'. Common interest privilege applies when two individuals have a similar or shared interest in obtaining legal advice or representation with respect to actual or anticipated litigation. An example would be a third party insurer whom the party has made a claim upon to cover the costs of a proceeding. A claim cannot succeed where a party's interests are selfish and potentially adverse to the other party's, and the privilege only lasts for as long as the parties' interests align. In dismissing the complaint, the Information Commissioner found that there was no evidence that the parties' interests ever aligned, and that they were at any rate now clearly in conflict.

## **Matter 3 – Secret law enforcement methodology**

The Complainant sought to view information held about him by a law enforcement organisation. The organisation objected on the basis that disclosure of the information would reveal secret law enforcement methodology. The Information Commissioner's investigation revealed that the methodology and most of the information sought was already in the public domain. To claim this exemption, it is necessary for the law enforcement organisation to show that the methodology it seeks to protect is in fact secret. The Complainant therefore succeeded at *prima facie* stage. The matter was subsequently resolved at mediation.

## **Matter 4 – Advice of in-house counsel**

The Complainant sought an ‘action table’ that related to a meeting which the Department referred to as an in-house meeting to discuss himself and another person. The Department refused to provide the document on the basis that it would breach client legal privilege. The Complainant argued that there was no indication whether the Department’s in-house legal counsel had attended the meeting in her capacity as the Department’s legal representative or in a more general managerial / strategic role. The Information Commissioner found that on its face, some aspects of the document indicated legal advice was sought, but others were more ambiguous. The Information Commissioner found the onus was on the Department to establish that the meeting was in fact for the dominant purpose of obtaining legal advice. The Complainant succeeded at *prima facie* stage and the matter was subsequently resolved at mediation.

## **Matter 5 – Third party business information**

An NT Government officer conducted an inspection of business premises and created notes which stated that certain aspects of the premises were non-compliant with required standards. The notes further questioned the competency of a private company which had assessed the premises as compliant. An FOI application was made for a copy of the notes. The company which had assessed the premises objected to the release of the notes on the basis that they contained the company’s confidential business information, and would adversely impact the company’s business if released. The Information Commissioner dismissed the complaint. The information in question was plainly not confidential business information belonging to that business, but information the Government inspector had been able to readily observe by visiting premises belonging to another business.

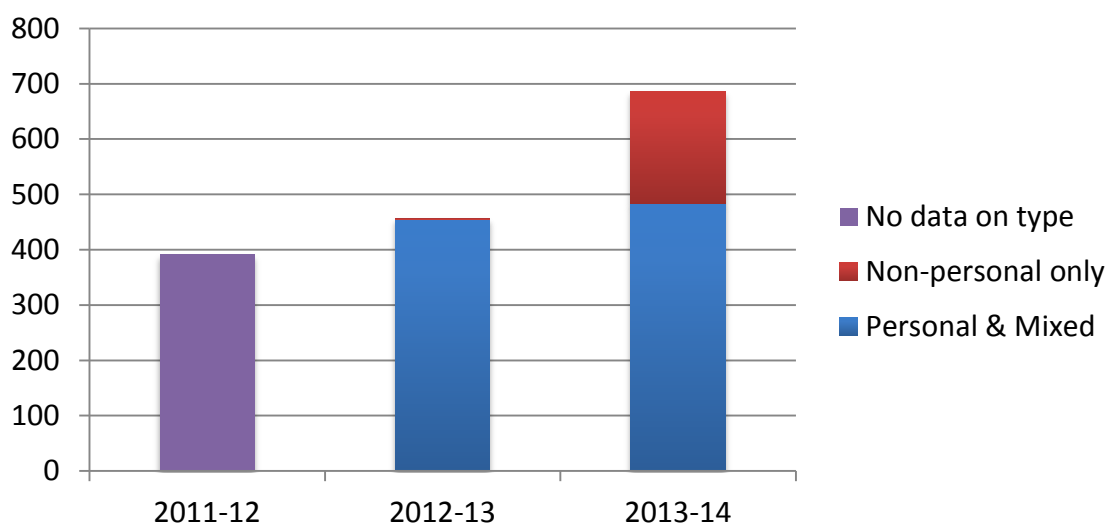
# Freedom of Information applications and internal review

Section 98 of the *Information Act* requires the Commissioner to report annually to the Minister on the operations of the Office. To meet these legislative requirements, the Office collects data about FOI access applications, correction applications and internal review applications from all NT public sector organisations. The raw data is available in seven tables at Appendix 2. The information below gives a general overview of that data.

## FOI applications received and handled by public sector organisations

Overall, there has been a significant increase in the number of applications lodged during this reporting period, continuing an upward trend. 391 applications were lodged across the NT in 2011-12, 456 applications were lodged in 2012-13, and 686 new applications for information were lodged in 2013-14. Nevertheless, the public sector organisations have done an impressive job of finalising this increased number of applications, with 653 matters finalised in 2013-14 and only 60 pending as of the end of the reporting period. Despite the increase in the number of matters, it is likely that the volume of work experienced by organisations has remained roughly comparable, given that the total fees chargeable in this reporting period is comparable to the previous reporting period (approximately \$24 000).

This year there have been significantly more applications for solely non-personal information as compared to the previous reporting period. In the previous reporting period, less than 1% of applications handled were for 'non-personal information only'.



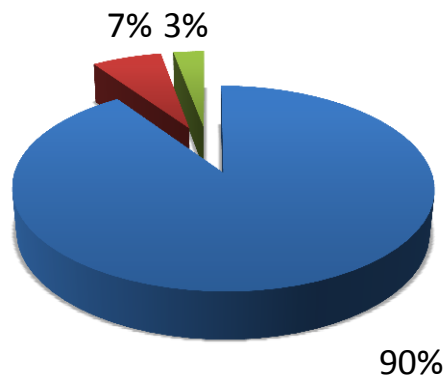
In this reporting period, 203 applications were entirely for non-personal information. Further enquiries revealed that perhaps a quarter of these applications for non-personal information were attributable to a change in counting methods (enquiries made by solicitors on behalf of clients were being recorded as applications for non-personal information by some organisations). Sources identified for the remainder included journalists, politicians, a variety of NGOs, businesses seeking information about development matters, and insurance companies.

***Applications for 'non-personal information only' came from sources including journalists, politicians, NGOs, businesses, and insurance companies.***

Department of Health (DoHe), Department of Housing (DoHo), and Police Fire and Emergency Services (NTPFES) continue to process by far the largest number of information access applications, and all received an increase in applications in this reporting period. In addition, a number of organisations which usually have relatively few applications to process received a significant increase in applications. These organisations included: the Department of Community Services (DCS), Department of Infrastructure (DoI), Department of Lands, Planning and Environment (DLPE), and Department of Land Resource Management (DLRM). The Department of Education and Children Services (DECS) had a relatively high number of applications in the previous reporting period.

## FOI matters by stage in 13-14

■ Applications ■ Internal Reviews ■ Complaints to OIC



In this reporting period that organisation had been split into the Department of Education (DoE) and Department of Children and Families (DCS), and the combined applications to those two Departments is comparable to the figure for DECS in the previous reporting period.

The vast majority of matters continue to be resolved at the application stage, with relatively few matters progressing to internal review or complaint to the

Information Commissioner. This is a satisfactory result and confirms the Commissioner's view that resources spent on training Information Officers within organisations is money well spent.

## Application and processing fees

The *Information Act* provides for application and processing fees. Similar to other jurisdictions, the maximum fees chargeable are set in legislation, and are set at a level well below that required for governments to recover the costs of administering a freedom of information scheme. Rather, the fees are a safeguard against frivolous and vexatious applications, as they require an applicant to demonstrate their interest in obtaining the information by assisting with those administration costs. Application fees are not charged for requests for purely personal information, and processing fees are also typically not charged if the request is small and straight forward. The resources required to collect fees in a large number of small cases would require the government to spend more on administration than they could recoup in fees. Logically, it is in both the applicant's and the government's interests to waive fees in these cases.

This year, the proportion of fees waived is significantly lower. This is an interesting change. Last year 60% of the total fees chargeable were waived, whereas this year only 40% were waived. However, this shift is consistent with the increase in applications for non-personal information only, as one would expect a higher proportion of processing costs would be charged in these applications. Police Fire and Emergency Services (NTPFES) and Department of Housing (DoHo) are to be congratulated for their continuing commitment to transparency and open government, as is evident by the significant proportion of fees that they waive.

***Waiving fees for small matters makes government information accessible with the minimum red tape and fuss.***

## On what grounds was information not released?

The *Information Act* provides a number of exemptions that may be used to withhold information from release. Table 4 in Appendix 2 provides details of the type of exemptions used. The most used exemptions in this reporting period were those aimed at protecting:

- **privacy of third parties** (section 56) – relied on by 17 organisations;
- **client legal privilege, parliamentary privilege, and preserving the system of justice** (section 49) – relied on by 9 organisations;
- **commercial in confidence information** (section 57) – relied on by 8 organisations;

The 'privacy exemption' continues to remain the primary exemption used. The greater use of the commercial-in-confidence exemption likely reflects changes in the type of information sought by applicants. It is worth noting that 13 organisations also refused to provide information on the basis that it did not exist or could not be located. Further, there has been a significant increase in the use of section 25, which allows an organisation to refuse to process an application on the basis it would unreasonably interfere with the operations of that organisation. This may have been prompted by the increased workload on public sector organisations through the increasing number of information access applications.

## Privacy

Privacy complaints can be made to this Office if a person believes a public sector organisation has breached the Information Privacy Principles set out in the *Information Act* provided the organisation has been given reasonable opportunity to address their concerns.

### Number of privacy complaints and their outcome

A small number of privacy complaints reach the Commissioner each year. Complaints only reach the Commissioner if the public sector organisation fails to rectify a privacy breach within a reasonable time. 3 new complaints reached the Commissioner during this reporting period, 2 of which are still in the process of being resolved. 1 of the complaints carried over from last year was resolved informally, while 2 complaints were not accepted because they did not meet the prerequisites of a formal complaint.

Privacy Complaints to the Information Commissioner – 2013-14							
PSO	Lodged	Not accepted	Resolved Informally	Prima Facie	Mediation	Hearing	Open at year end
DCIS	1			1			0
DOB	1						1
MSHR	1						1
NTPFES	(2)	1	1				0
TIO	(1)	1					0
<b>Total</b>	<b>6</b>	<b>2</b>	<b>1</b>	<b>1</b>			<b>2</b>

\* figures (in brackets) are complaints carried over from the previous year

### Policy Advice

The Office also continues its work responding to requests from government organisations for advice on the privacy implications of various projects and legislation. One of our key roles is to provide expertise at an early stage so that projects are designed in a way that treats personal information with care.

Over 386 hours of policy advice were provided, an increase of over 50% compared to the 2012-13 reporting period. This partly reflects greater time devoted to policy work during a slower complaints period earlier in the year, and partly reflects an increased demand for policy advice from public sector organisations. The performance measure of the provision of 650 hours of policy advice noted in Budget Paper 3 is an unrealistic target in times when complaint numbers are high. If high complaint numbers continue, this measure will be reviewed.

A large amount of the policy advice given has been focused on electronic information and designing privacy protections around current and emerging technology. Advice has been provided on many issues including:

- cloud computing and the use of online tools;
- the use of 'cookies' and logging of website activity;
- management of data collected and held on mobile devices;
- the Territory's involvement in national and international data sharing networks, and
- outsourcing of information management activities to private organisations located outside the jurisdiction.



The Office is also regularly asked to comment on the privacy impacts of proposed legislative amendments, and to review privacy policies, procedures, and disclaimers.

## General Enquiries

In addition to providing in-depth policy advice requested by public sector organisations, the Office receives general enquiries via telephone and email from individuals. During 2013-14, there were 358 enquiries, an increase of approximately 25% compared to the 2012-13 reporting period. The feedback to the Office about the enquiry service is generally very positive.

## Case studies

### Matter 1 – Restricting friends from accessing information

The Complainant filed an application for financial remuneration to an NT Government Department. The Complainant personally knew some of the employees of the area which processed those applications, and he requested that the application not be handled by a person he knew. The application contained sensitive personal information about the Complainant. The Department wrote back to the Complainant to advise him that they would ‘deal with discretion’ with the application. The Complainant was then upset to learn that a person he knew had been involved in handling the complaint and claimed the Department breached his privacy. In this matter, there was no privacy breach at law. The privacy principles set out in the *Information Act* require an organisation to use information only for the purpose for which it is collected. The purpose here was to progress an application for financial remuneration and the information was only used for that purpose. In this case, the applicant had no legal right to require the Department to avoid using certain employees to process the application.

### Matter 2 – Improved practical privacy guidance

The Information Commissioner has worked closely with the Department of Corporate and Information Services to develop new guidelines concerning the use of emails and electronic devices. The new guidelines offer practical, plain English guidance on the rights and responsibilities of NTG employees when using email and electronic devices, including with respect to privacy. The Information Commissioner also conducted a workshop with representatives of a wide number of public sector organisations to review the wording of the privacy statement for the NTG internet. The Information Commissioner used comments from this workshop to simplify, streamline, and improve the accuracy of the privacy statement. The new statement went live on the NTG internet in May 2014.

### Inaugural Privacy Audit

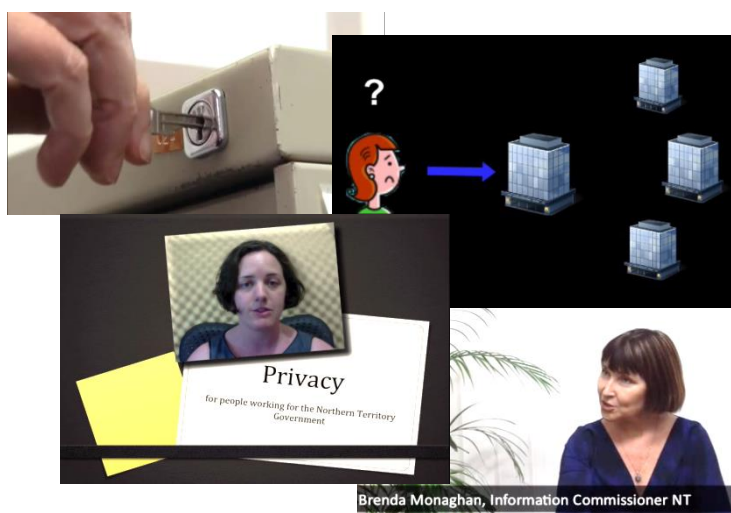
This year, during Privacy Awareness Week, the Information Commissioner launched the first privacy audit conducted under the *Information Act*. All Agencies were provided with a USB ‘key’ containing a self-audit kit, updated guidelines, and two training videos. Further, four Agencies were selected and required to administer the audit. The audit was developed by the Office of the Information Commissioner in consultation with Deloitte. The results of the audit will be received and analysed in the 2014-15 financial year, and the Information Commissioner looks forward to working with the Agencies to address any compliance issues identified.



## Education and Training

The Office continues to provide a range of training and education services, including:

- **Initial training and ongoing professional development for Information Officers, the public sector employees tasked with making decisions in accordance with the *Information Act*.** During this last reporting period we organised a 2 day intensive training course and a number of half day forum workshops. Topics at the workshops have included communicating privacy in plain English, current national and international developments in privacy, legal issues in managing large applications which may interfere with agency operations, and search capabilities of new government information systems.
- **Tailored large and small group training sessions.** The Office has delivered 18 presentations to 245 participants, from presentations at executive director meetings and to Members of the Legislative Assembly, to training for new graduates and public sector induction sessions. Sessions are designed to address the particular needs of participants and contextualised to their workplace. Qualitative feedback from presentations has been very positive.



Brenda Monaghan, Information Commissioner NT

In this reporting period, the Office produced two short training videos for public sector organisations to use to educate staff about their privacy obligations under the *Information Act*: 'Privacy by Design' and 'Introduction to Privacy'. The videos contain plain English explanations of the Information Privacy Principles, and practical advice for employees to reduce privacy risks and identify situations where they should seek further advice about privacy compliance.

This year, the Northern Territory coordinated the committee of the Australia Pacific Privacy Authorities' (APPA) tasked with developing a tool for Privacy Awareness Week, which occurs annually in the first week of May. APPA includes the jurisdictions of NSW, Victoria and Queensland, as well as Hong Kong, Korea, Canada and Macau to name a few. The tool for 2014 was aimed at improving privacy awareness for consumers of mobile apps. Further information can be found on the Privacy Awareness Week website:

<http://www.privacyawarenessweek.org/>



## **APPENDICES**

# Appendix 1 – Statement of Financial Performance

For the year ended 30th June 2014

	<b>2014</b>	<b>2013</b>
	<b>\$'000</b>	<b>\$'000</b>
<b>INCOME</b>		
Appropriation - Output	922	809
Goods and Services Received Free of Charge	141	43
<b>TOTAL INCOME</b>	<b>1 063</b>	<b>852</b>
<b>EXPENSES</b>		
Employee Expenses	892	770
<i>Administrative Expenses</i>		
Repairs and Maintenance	0	1
Purchase of Goods and Service		
Property Management	3	4
Accommodation	4	1
Advertising	0	3
Agency Service Agreement	4	0
Communications	19	13
Consultants Fees <sup>2</sup>	24	1
Doubtful debt	1	0
Consumables / General Expenses	7	0
Information Technology Charges	33	23
IT Hardware and Software Expenses	1	1
Legal Expenses	0	30
Library Services	2	2
Marketing & Promotion	9	0
Medical/Dental Supply and Services	2	0
Membership Subscription	3	1
Motor Vehicle Expenses	8	21
Office Requisites and Stationery	2	2
Official Duty Fares	5	4
Other Equipment Expenses	24	20
Power	3	0
Recruitment expenses	2	0
Training and Study Expenses	10	13
Travelling Allowances	2	1
Depreciation	13	11
DCIS Services Free of Charge	142	43
<b>TOTAL EXPENSES</b>	<b>1 215</b>	<b>965</b>
<b>NET SURPLUS / (DEFICIT)</b>	<b>(152)</b>	<b>(113)</b>

<sup>2</sup> Consultant fees for 2014 Includes IT consultants fee

## Appendix 2 – Statistics by Public Sector Organisations

Tables 1 to 5 set out the details of the Freedom of Information access and correction applications made to public sector organisations, and the outcome of those applications. Also included are the details of internal review applications, the most used exemption for refusing to release information and the details of application and processing fees received and fees reduced or waived:

Table 1	Information access applications and their outcome
Table 2	Correction applications and their outcome
Table 3	Internal review applications and their outcome
Table 4	Exemptions relied on when refusing to release information
Table 5	Application and processing fees received and reduced or waived.

### Abbreviations for the public sector organisations used in the tables:

AGDJ	Attorney-General and Justice (Dept of the)
ASTC	Alice Springs Town Council
CDU	Charles Darwin University
CoD	City of Darwin
CoP	City of Palmerston
DAM	Arts and Museums (Dept of)
DCF	Children and Families (Dept of)
DCIS	Corporate and Information Services (Dept of)
DCM	Chief Minister (Dept of the)
DCS	Correctional Services (Dept of)
DLA	Legislative Assembly (Dept of the)
DLPE	Lands, Planning and the Environment (Dept of)
DLRM	Land Resource Management (Dept of)
DME	Mines and Energy (Dept of)
DoB	Business (Dept of)
DoE	Education (Dept of)
DoHe	Health (Dept of)
DoHo	Housing (Dept of)
DOI	Infrastructure (Dept of)
DOT	Transport (Dept of)
DPIF	Primary Industry and Fisheries (Dept of)
DTF	Treasury and Finance (Dept of)
H&CSCC	Health and Community Services Complaints Commission
MSHR	Menzies School of Health Research
NTPFES	NT Police, Fire and Emergency Services
TIO	Territory Insurance Office
WARC	West Arnhem Regional Council

The information recorded in the tables of Appendix 2 was submitted by NT public sector organisations through a statistical return completed at the end of the reporting period. The Office appreciates the co-operation and assistance of FOI and privacy administrators within all public sector organisations for responding accurately and in a timely fashion to these requests.

**TABLE 1 – Information access applications and their outcome 2013-14**

PSO	Lodged 13-14	Pending 12-13	Handled 13-14	Information released			Withdrawn 13-14	Transfers 13-14	Finalised 13-14	Pending 13-14	Total Handled	Exemption used	Other reason	Personal info	Mixed info	Govt only info
				All	Part	None										
AGDJ	7	1	8	1	3	2		6	2	8	4	2	5	2	1	
ASTC	1		1	1				1		1					1	
CDU	3	1	4	2	2			4		4	1	1	4			
CoD	6		6	4		1	1	6		6	1		1		5	
CoP	4		4			3		3	1	4	3		1	3		
DAM	2	1	3	1		1		2	1	3		1		3		
DCF	24	3	27	2	8	4	7	21	6	27	8	4	12	14	1	
DCIS	1		1		1			1		1	1	1	1			
DCM	9		9	1	3	3		8	1	9	3	2			9	
DCS	58		58	9	22	20		57	1	58	22	20	52	2	4	
DLA	1		1			1		1		1	1				1	
DLPE	17		17	1	2	3	4	10	7	17	2	3			17	
DLRM	14	1	15	5	7	0	1	14	1	15	1	6	8		7	
DME	14		14		2	3	5	12	2	14	5				14	
DoB	21	3	24	2	17			19	5	24	17		1	3	20	
DoE	25	2*	27	8	9	2		19	8	27	9	2	20		7	
DoHe	128	*	128	58	5	47	9	120	8	128	5		49	7	72	
DoHo	169	2	171	15	137	8	11	171		171	138	7	155	14	2	
DOI	39		39	1	0	13	21	38	1	39		13	23	16		
DOT	4	1	5	2	2	1		5		5	3				5	
DPIF	7	1	8	2	1	1	2	6	2	8	2		2		6	
DTF	3	1	4	1	1			3	1	4	1		1		3	
H&CSCC	2		2			2		2		2	2		2			
MSHR	1		1		1			1		1	1			1		
NTPFES	116	8	124	20	58	21	12	111	13	124	59	16	87	9	28	
TIO	9	2	11	4	1	3	2	11		11	2	2	11			
WARC	1		1			1		1		1		1		1		
<b>TOTAL</b>	<b>686</b>	<b>27</b>	<b>713</b>	<b>140</b>	<b>282</b>	<b>140</b>	<b>75</b>	<b>16</b>	<b>653</b>	<b>60</b>	<b>713</b>	<b>291</b>	<b>81</b>	<b>435</b>	<b>75</b>	<b>203</b>

\* These two public sector organisation experienced difficulty with records of applications pending at the end of 2012-13. They are included in the total number. For this reason there is a discrepancy between the figure reported as pending at the end of the year in 2012-13 and the figure reported as pending at the start of 2013-14.

**TABLE 2 – Information correction applications and their outcome**

PSO	Lodged 13-14	Pending 12-13	Handled 13-14	Corrected as requested	Other form offered	No correction made	Withdrawn 13-14	Finalised 13-14	Pending 13-14	Handled 13-14
DoHe	3	0*	3			2	1	3		3
DTF	2	0	2			1		1	1	2
PFES	1	1	2		1	1		1	1	2
<b>TOTALS</b>	<b>6</b>	<b>1</b>	<b>7</b>	<b>0</b>	<b>1</b>	<b>4</b>	<b>1</b>	<b>5</b>	<b>2</b>	<b>7</b>

\* DoHE has included in its correction applications handled one application that was reported as pending at the end of 2012-13 due to changed reporting systems.

**TABLE 3 – Internal Review applications and their outcome**

PSO	Handled during 13-14			Finalised during 13-14**					Total	Pending
	Pending 12-13	Lodged 13-14	Handled 13-14	Decision confirmed	Decision varied/revoked	More info located	More info released	Withdrawn 13-14	Finalised 13-14	End 2013-14
AGDJ	1	1	2	2					2	
CDU		1	1	1					1	
DAM		1	1	1					1	
DCF		2	2	1					1	1
DCIS		1	1	1					1	
DCM		1	1		1	1			1	
DCS		2	2	1	1	1	1		2	
DLRM		1	1	1					1	
DoB		3	3	2					2	1
DoE		4	4	2	2		2		4	
DoHe		15	15	7	8		8		15	
DoHo		1	1	1					1	
DOI		11	11	11					11	
DPIF		3	3	2	1		1		3	
DTF		1	1	1					1	
MSHR		1	1	1					1	
NTPFES	1	1	2	1	1		1		2	
<b>TOTALS</b>	<b>2</b>	<b>50</b>	<b>52</b>	<b>36</b>	<b>14</b>	<b>2</b>	<b>13</b>		<b>50</b>	<b>2</b>

\* DoE has included in its review applications handled one review application that was reported as pending at the end of 2012-13 due to changed reporting systems.

\*\* Two internal reviews refer to information correction applications; both decisions were confirmed.

## EXEMPTIONS RELIED ON

**TABLE 4 – Number of occasions where the following sections of the *Information Act* have been relied upon to refuse access to the requested information:**

PSO	s45(a)	46	47	48	49	49A, B or C	52	53	54	55	56	57	other	unreasonable interference	search issues
AGDJ					y			y			y			1A	1A
ASTC															
CDU											y				1R
CoD										y					
CoP											y				
DAM														1A	1R
DCF		y		y	y		y			y	y		4		2A
DCIS					y		y				y				1A & 1R
DCM					y						y	y	1	1A	1A
DCS								y	y		y		14		6A
DLA					y										
DLPE											y		2		1A
DLRM					y		y				y	y		5A 1R	
DME		y									y	y			
DoB		y					y			y	y	y			
DoE	y				y	y	y	y		y	y	y		1A 1R	
DoHe					y						y				2A
DoHo						y	y	y	y	y	y	y			7A
DOI															
DOT	y										y				
DPIF		y									y				
DTF												y			
H&CSCC						y									
MSHR								y	y	y					
NTPFES		y	y	y	y			y			y				6A
TIO												y			1A
WARC															1A

\* "A" indicates that the reason indicated for refusing information occurred at the application stage, while "R" indicates this reason for refusing to release the information occurred at the internal review stage.



**TABLE 5**

**Application Fees received and reduced or waived**

PSO	Number received	Amount received	Number waived	Amount waived
AGDJ	3	90.00		
ASTC	1	30.00		
CDU	0			
CoD	4	120.00		
CoP	2	60.00	1	30.00
DAM	1	30.00	1	30.00
DCF	2	60.00		
DCIS	0			
DCM	9	270.00		
DCS	0			
DLA	1	30.00		
DLPE	16	480.00		
DLRM	4	120.00		
DME	11	330.00		
DoB	22	600.00	2	60.00
DoE	3	90.00		
DoHe	35	1050.00	16	480.00
DoHo	3	90.00	1	30.00
DOI	2	60.00	1	30.00
DOT	3	90.00	1	30.00
DPIF	3	90.00		
DTF	1	30.00	2	60.00
H&CSCC	0			
MSHR			1	30.00
NTPFES	26	780.00	3	90.00
TIO	0			
WARC	1	17.50	1	12.50
<b>TOTAL</b>	<b>153</b>	<b>4517.50</b>	<b>30</b>	<b>882.50</b>

**TABLE 6**

**Processing Fees received and reduced or waived**

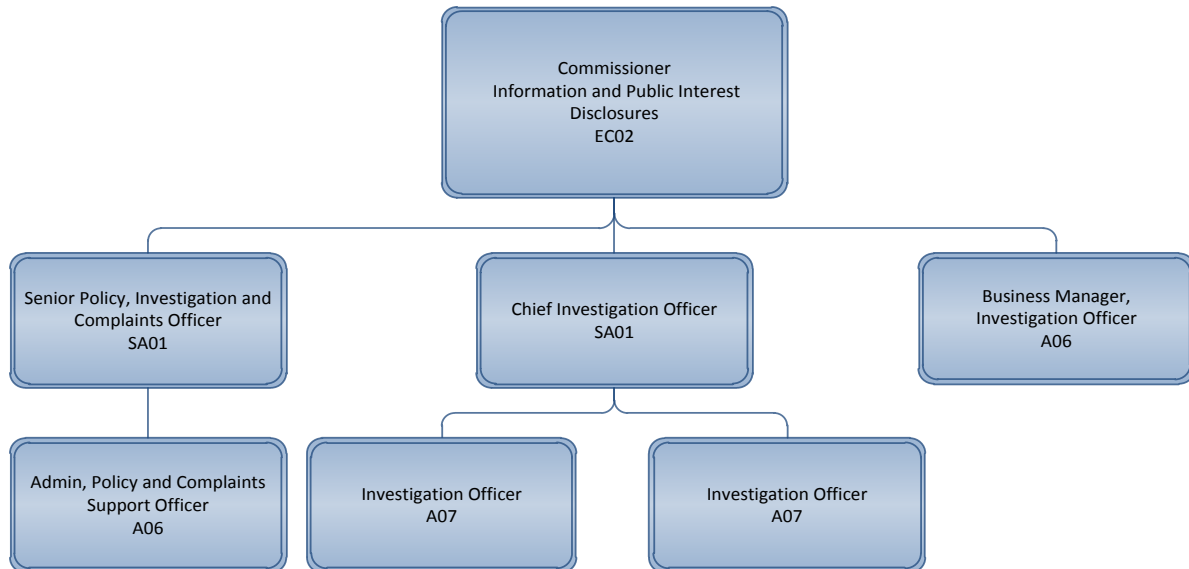
PSO	Number received	Amount received	Number waived	Amount waived
AGDJ	1	100.00		
ASTC	0			
CDU	0			
CoD	0			
CoP	0			
DAM	0			
DCF	0			
DCIS	0			
DCM	3	1277.10		
DCS	0			
DLA	0			
DLPE	2	1254.96		
DLRM	1	450.00		
DME	2	357.20		
DoB	1	1150.00	2	350.00
DoE	1	305.00		
DoHe	25	3453.85	21	1637.07
DoHo	1	75.00	153	6165.00
DOI	0			
DOT	0			
DPIF	2	945.83		
DTF	1	875.00	1	75.00
H&CSCC	0			
MSHR	0			
NTPFES	0		15	650.00
TIO	0			
WARC	0			
<b>TOTAL</b>	<b>40</b>	<b>10243.94</b>	<b>192</b>	<b>8877.07</b>

**TABLE 7**

**Total fees received and total fees waived or reduced**

Total fees received	Total fees waived
190.00	
30.00	
120.00	
60.00	30.00
30.00	30.00
60.00	
1547.10	
30.00	
1734.96	
570.00	
687.20	
1750.00	410.00
395.00	
4503.85	2117.07
165.00	6195.00
60.00	30.00
90.00	30.00
1035.83	
905.00	135.00
	30.00
780.00	740.00
17.50	12.50
<b>14761.44</b>	<b>9759.57</b>

## Appendix 3 – Organisational Chart as at 30 June 2014



## Appendix 4 – Changed NT Public Sector Organisations

On 4 September 2012, the newly elected Government announced changes to government agency arrangements. Further changes were made in October 2012 and March 2013. These changes were reported in last year's annual report. The following changes have occurred during 2013-14 and are reflected in the public sector organisations listed in Appendix 2 of this year's annual report:

DCF	Children and Families (Dept of) – previously Office of Children and Families as part of Department of Education and Children's Services (DECS)
DCS	Community Services (Dept of) – previously part of Department of Housing, Local Government and Regional Services (DHLGRS)
DoE	Education (Dept of) – previously Department of Education and Children's Services (DECS)
DLGR	Local Government and Regions (Dept of) – previously Department of Local Government
DSRR	Sport and Recreation and Racing (Dept of) – previously Department of Sport and Recreation and Racing was previously part of AGDJ

## **Our Values**

**Integrity** – Act ethically, openly, honestly, fairly and with accountability.

**Courage** – Provide robust reporting and advice and comment without fear or favour.

**Professional Excellence** – Work together to positively represent the Office.

**Commitment** – Strive to achieve the outcomes required by the *Information Act* and the *Public Interest Disclosure Act*.

**Respect** – Treat each other and all those who come into contact with this Office with respect.



**Office of the Commissioner for  
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