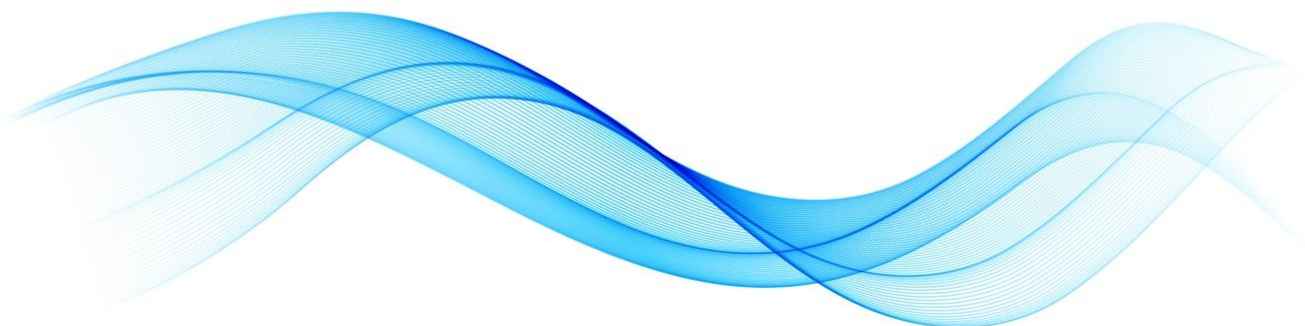
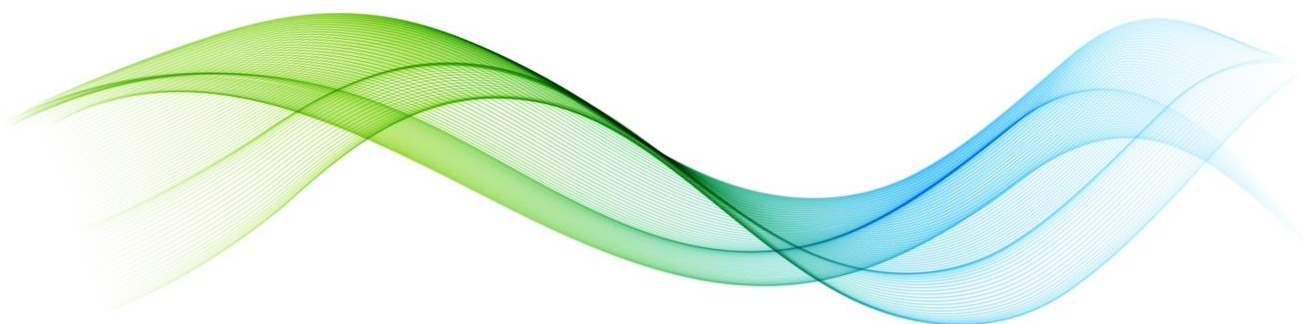




Commissioner for  
**Information and  
Public Interest Disclosures**  
NORTHERN TERRITORY



**2015-16  
ANNUAL REPORT**

## 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 seventh Annual Report of the combined Office and the thirteenth 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 for complaints made before 1 May 2016;
- Referring complaints made from 1 May 2016 to the NT Civil and Administrative Tribunal to handle appeals from decisions of the Information Commissioner;
- 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 the Information Privacy Principles;
- 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 including 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 2016

The Hon Natasha Fyles 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 2015 to 30 June 2016.

Yours sincerely



Brenda Monaghan  
Commissioner, Information and Public Interest Disclosures

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## Message from the Commissioner

I present the Annual Report of the Office of the Commissioner, Information and Public Interest Disclosures for the financial year 2015-16. This is an opportunity to place on public record information about the very important work of my office including our investigations into complaints of improper conduct and privacy breaches and our external reviews of Freedom of Information (FOI) decisions made by public sector organisations. The report also details the work we have done in community education, public officer training and the provision of policy advice. The case studies included in this report are chosen from matters dealt with during this reporting period and are representative of the types of matters we routinely deal with.



2015-16 has been another interesting and challenging year. We have conducted some large investigations into alleged improper conduct by public officers and public bodies using the significant powers provided to us in the *Public Interest Disclosure Act* (PID Act). In 2014-15, there was much public and political debate about the need for a body with extended powers and greater jurisdiction to oversight complaints of corruption by public officials in the Northern Territory. It culminated in a decision by Parliament to hold an independent inquiry into the issue and, along with other independent oversight bodies, I made submissions to that inquiry (the Anti-Corruption, Integrity and Misconduct Commission Inquiry). Commissioner Brian Martin AO QC's Final Report in the Inquiry was handed down in May 2016. If accepted by government, the Report recommends the creation of a new independent body with wider jurisdiction and enhanced powers to protect the public interest from corruption and serious misconduct within public bodies. My staff and I watch with interest the developments in this area and continue in the meantime to undertake our legislative responsibilities.

2015/16 has been a busy year for both FOI officers in public bodies and for our office. The number of FOI applications made each year continues to grow and an increasing number of those requests are for non-personal information from political, media and community watchdog organisations. We will continue to monitor these developments in future years.

As regards our privacy jurisdiction, the number of complaints about breaches of privacy by public officers has remained much the same in recent years. We have been much busier however in providing policy advice to public bodies on privacy issues such as privacy by design, good information sharing and cloud storage options. We also report on a privacy audit we completed for 4 large public bodies to assist them in understanding where they could improve their privacy protection. Our intention is to work collaboratively with these bodies throughout the next year as they implement our recommendations.

Once again, sincere thanks to my staff for their commitment and hard work throughout the reporting period. They remain the biggest asset of this Office.

A handwritten signature in black ink, appearing to be 'B Monaghan', written over a light blue horizontal line.

Brenda Monaghan



## 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:

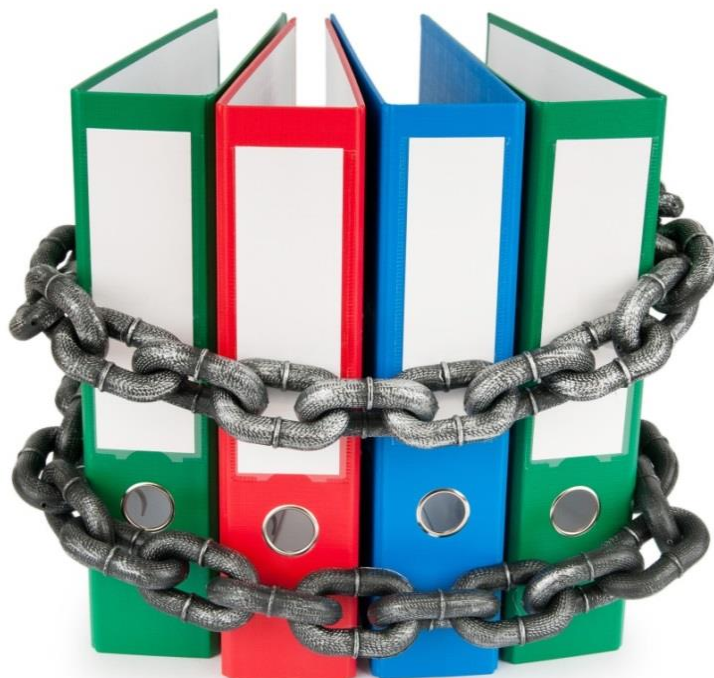
- seeking or accepting a bribe or other improper inducement
- involved in any other form of dishonesty
- showing inappropriate bias
- guilty of a breach of public trust or
- misusing public information.

‘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. ‘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.

The Case Studies are chosen from complaints handled during 2015/16 and are examples of the type of work this Office has been undertaking. All are sufficiently de-identified to provide information without causing concerns for either the discloser or the confidential nature of the investigation process.



## The Investigation Process

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. These decisions are not made lightly, particularly when the consequences of an investigation are significant including referrals for criminal investigation or disciplinary action leading to termination of employment. Further, there are often 'whistleblowers' (called disclosers) who require protection.

Once a matter has been assessed as a Public Interest Disclosure by the Commissioner, the robust investigative powers found in the Act are invoked.

They include powers:

- to require a person to answer specified questions or provide specified information;
- to require a person to produce specified documents or things or documents or things of a specified kind in the person's possession or control;
- to require a person to attend for examination before the Commissioner or her delegate;
- to enter and inspect premises occupied by a public officer or public body (other than a residence);
- to take into those premises persons, equipment and materials reasonably required for the investigation;
- to take copies of, or extracts from, documents located at the premises; and
- to serve confidentiality notices on those providing information to the investigation.

A refusal to comply with a request of the Commissioner is an offence against the Act punishable by fine or imprisonment.



## The Referral Power

A variety of complaints alleging improper conduct by public officers and public bodies are made to this Office. Many complaints are better dealt with by others and the Commissioner has the power to refer complaints either formally or informally. If an allegation involves less serious misconduct or matters outside the Commissioner's jurisdiction, then the complainant will be assisted with an informal referral to the appropriate agency. Where matters involve allegations of 'improper conduct' that the Commissioner decides would be better dealt with by a referral body prescribed under the Act, then the matter is 'formally referred'. If it becomes evident during an investigation that criminal activity has occurred, then the matter will be formally referred to Police.

# Case Studies

## Case Study – Addressing Cultural Issues

The PID Commissioner conducted an investigation into allegations that systemic cultural issues existed within a public sector organisation that impacted negatively on the general wellbeing of female employees. The issues raised included a concern that women had no confidence that they could raise their concerns within the organisation and have them fairly dealt with.

The investigation heard from many witnesses and the Commissioner formed the view that that there were significant and serious cultural issues impacting negatively on women within the organisation that needed to be addressed. The Commissioner acknowledged the efforts by the Chief Executive to address the cultural issues, including an equity and diversity strategy, but noted that more was required. In April 2016, the Commissioner made the following recommendations that were accepted by the Chief Executive:

- 1.1 That the Chief Executive develop and implement a comprehensive strategy to drive cultural and organisational change to promote safety, equality and freedom from sex discrimination and harassment in the organisation.
- 1.2 That the Chief Executive seek additional funding to obtain the necessary expert advice and assistance required to implement recommendation 1.1.
- 1.3 That the Chief Executive seek the support of an external expert to lead this project.

The Commissioner is receiving updates as to the progress being made by the Chief Executive.

## Case Studies- Enrolment Inconsistencies

An educational institution was alleged to have manipulated enrolments to improperly obtain additional funding. The PID obtained and analysed the organisation's business records, and engaged an external audit body to conduct a financial analysis of them.

While the financial analysis did not support the allegation that funding had been 'over claimed', the investigation raised concerns about student enrolment practices in a particular faculty. By the conclusion of the PID investigation, the organisation had already initiated a number of policy and procedural changes, including:

- a review of the enrolment system and introduction of new, stringent standards for enrolment procedures;
- a procedure for handling incomplete enrolment forms; and
- a discontinuation of a practice where educators could sign enrolment forms on behalf of students.

The organisation agreed to continually monitor the implementation of these changes to lessen the risk of any improper conduct occurring in the future.

In an unrelated disclosure about a different educational institution, it was alleged that a public officer retrospectively marked students as present when they were absent. As funding received by the institution is linked to attendance numbers, the discloser was concerned that the institution was receiving funding it was not entitled to and that the public officer's actions may amount to fraud.

The Chief Executive Officer assisted with the preliminary investigation and an examination of relevant records supported the discloser's concerns. The actions of the public officer appeared to be in breach of the *Criminal Code* and the file was formally referred to the NT Police for investigation.

### **Case Study – Inappropriate Bias**

The PID received an allegation that the actions of a public officer amounted to improper conduct. The allegation was that the public officer had displayed an inappropriate bias when dealing with a prisoner. The prisoner was working in a private business as part of the 'Sentenced to a Job' program and was the subject of strict conditions on his participation in this program. Following an allegation that the prisoner had been absent from the workplace without permission, officers including the public officer in question arrived at the business premises and handcuffed the prisoner in front of clients of the business, embarrassing the prisoner and the business owner. The prisoner denied a breach but CCTV footage which could have clarified the matter was not examined by the officers.

An investigation was conducted with the assistance of the Department of Correctional Services Professional Standards Unit. CCTV footage and information concerning the prisoner's tracking device was obtained and confirmed that the prisoner had not left the workplace. The prisoner was subsequently returned to the program without loss of privileges. The Commissioner of Correctional Services supported the need for further training of prison staff.

### **Case Study – Allegation of Medical Cover Up**

The PID conducted an investigation into an allegation that serious medical negligence by a public officer was covered up for improper reasons. Organisational records and other documents obtained under section 26 of the Act were supplemented by field interviews. An examination of the evidence relating to the incident of medical negligence and subsequent treatment of the patient whilst in departmental care did not support the allegation made of a cover up by senior staff. Other matters regarding the adequacy of policies and procedures when such incidents occur and general quality of care issues are matters more appropriately dealt with by other bodies and those concerns were referred to the Health and Community Services Complaints Commission and to AHPRA for their consideration.

### **Case Study – Abuse of Office**

The PID received a complaint that a senior public officer had improperly interfered in a recruitment activity so that a friend could be employed. It was further alleged that the public officer subsequently approved the appointment even though the friend had failed a training and assessment program applicable to the position.

The matter was investigated and relevant recruitment and assessment information was provided by the Department under a section 26 notice. Formal interviews were conducted with many public officers including the relevant public officer and the friend. After completing the investigation, the Commissioner was satisfied the public officer had not acted inappropriately and that the recruitment process had not been compromised by improper motives. The assessment of the friend's competence and appropriateness for the position was undertaken by others and the ultimate approval of the appointment by the public officer was a routine matter that showed no favouritism.

## Case Studies- Council Concerns

The PID has conducted several investigations into allegations relating to the management of Councils and the behaviour of both elected members and Council staff. The following case studies are examples of investigations undertaken.

### Remote Council

The PID conducted an investigation into numerous allegations against staff working for a remote Council.

These allegations included:

- the misuse of Council's credit cards for personal use;
- the storage of Council owned equipment at a contractor's home which allowed the misuse of that equipment and anti-competitive behaviour;
- the lack of security surrounding the acceptance of tenders and the possibility that the contents of the tender box were being accessed and distributed prior to tenders closing;
- the alleged theft of fuel using jerry cans filled whilst filling Council vehicles;
- the alleged theft of property such as fishing rods, tools, jerry cans, car batteries, motor vehicle parts and personal belongings from seized vehicles while stored on Council property;
- the alleged cruelty to animals kept at the Council Pound;
- the risks to the public health and safety of nearby residents following an allegation that a toxic chemical storage area at the local waste management facility was prone to flooding and that these chemicals regularly wash down the drains and into a nearby creek.

These allegations were investigated with the assistance of the Council and were found to be unsupported by the available evidence or untrue as follows:

- With the assistance of Council, an internal audit of credit card records was undertaken. The audit showed that although a staff member had used a Council credit card for personal reasons during a perceived emergency, the CEO had pre-approved the transaction and the staff member had repaid the money. However, the Council took the opportunity to review and strengthen its policies in relation to the use of credit cards and to reduce the number of staff members with authority to use such cards.
- There was no evidence of misuse of a piece of mobile Council equipment which was stored at a contractor's property. In fact, it had been stored there because of a lack of available storage space at Council facilities. Council management has since arranged for the equipment to be returned to Council yard so that it is more easily available for Council use.
- There was no available evidence to support the allegation that fuel had been stolen and items were being removed from seized vehicles. However, Council management took the opportunity to review and strengthen its policies and procedures regarding the use of fuel cards and how seized vehicles were dealt with. Council now audits fuel consumption of vehicles against the volume of fuel used and seized vehicles and

any property inside are now photographed and catalogued. The tender process for the sale of seized vehicles has been strengthened with a numbered tag system now in place to protect the integrity of the tenders and a routine audit of the system has been introduced.

- The Animal Welfare section of the Department of Primary Industries and Fisheries conducted an audit of the Council Pound and found nothing to support the allegations of mistreatment of animals.
- Council acknowledged that the waste management facility and surrounding area is prone to flooding. However, any chemicals on site are buried in accordance with NT Environmental Protection Authority guidelines - being sealed and buried three metres underground, and the site has a current NTEPA licence. As an added precaution, the Council intends to conduct water testing during the next wet season to confirm that these chemicals are safely contained.

### **Allegation of Misbehaviour by Senior Council Manager**

The PID conducted an investigation into allegations that a Senior Council Manager had misled Council by taking an interstate trip for personal business, improperly using the Council travel allowance. The Manager had also misused his Council-provided credit card by making private purchases. Further allegations of inappropriate bias were raised concerning his employment of friends and family and providing them with significant pay rises.

The investigation involved obtaining information and documents from various sources within Council by issuing notices under section 26 of the Act. The documentation was examined and the Commissioner decided that this was a matter more appropriately dealt with by Police and the matter was formally referred to NT Police.

### **Things Aren't Always What They Seem....**

The PID conducted an investigation into allegations that a senior Council officer had misused her office by making an email offer of employment to a third party. The email and subsequent emails were sent from a personal account. The complainant alleged that the senior officer had then caused the third party significant hardship by continually delaying the commencement of employment through a series of emails. When the third party questioned the delays, she was paid a considerable amount in cash as 'compensation', with the cash purporting to represent payments made by Council.

The investigation relied on relevant information and documents received from Council and other sources and several interviews. The senior officer who was alleged to have behaved improperly strongly denied any involvement in the hoax and there was no evidence to suggest her involvement. The investigation ultimately disclosed the existence of another person (not a public officer) who was responsible for the hoax for his own personal reasons. He admitted his involvement and disclosed personal and health issues that he was dealing with. He was cautioned for providing false testimony to the Commissioner and encouraged to avail himself of available support. The victim and the Council were satisfied with the outcome of the investigation.

## Conflicts Of Interest and Other Issues in Remote Councils

The PID conducted an investigation into allegations that a senior officer in a remote Council had misused Council processes to 'gift' an item of value to an organisation that had direct links with the senior officer and extended family. This investigation also considered further allegations of impropriety in relation to Council assets, a failure to follow Council procedures and nepotism in recruitment.

The Commissioner noted that the investigation was a case study about the serious governance issues that can impact on all public bodies but particularly remote public bodies. The challenges include:

Managing conflicts of interest in a small community

Understanding the role of Traditional Owners and the challenges that can arise when incorporating their wishes into a council's decision making where appropriate

The importance of recruiting appropriately qualified personnel for the role of council CEO

The need to ensure transparency in council decision making

The need to provide suitable training for councillors on conflict of interest and governance issues

The proper disposal of council assets, including machinery and equipment.

The investigation involved obtaining information and documents from various sources by issuing notices under section 26 of the Act, as well as conducting a number of formal and field interviews. The evidence obtained was examined and the Commissioner formed the view that a senior public officer had acted improperly in dealing with Council property and in involving himself in Council decision-making in circumstances where he had a conflict of interest. In making recommendations, the Commissioner took into account the need for the public officer and other officers to undertake appropriate corporate governance training. The Commissioner recommended that the Council work with the Department of Local Government and LGANT to develop a compliance plan which included:

Arranging appropriate training for new and existing members and senior Council staff including the following matters: the Council's Code of Conduct, identifying and seeking advice on conflicts of interest, use of confidential minutes, processes for disposal of Council assets and appropriate frameworks for engaging with Traditional Owners and other local interest groups.

An audit of Council minutes and agendas in recent years to determine if any information was incorrectly considered in confidential meetings and if so, retrospective publication of this information.

A schedule for appropriately auditing the proper use of the conflict of interest register and the confidential minutes' process and provision of update reports to Council and the Department.

Identification of sufficiently senior and experienced sources of advice for Councillors and senior Council staff who may be unsure as to their governance obligations.

The Commissioner commented about the need for legislative change with regard to the following relevant sections of the Local Government Act, which deal with disciplinary proceedings against Council members, and conflict of interest with respect to not-for-profit Associations and Aboriginal Corporations:

The six month limitation period for disciplinary processes against Council members set out in section 79(2) leaves a lacuna in the compliance framework, where even serious breaches of public trust by a member cannot be dealt with if they are not discovered until the time period has elapsed. A person could be convicted of quite significant dishonesty offences, including offences against the Council committed while in Office, and unless a term of imprisonment of more than a year is imposed, they are not disqualified from holding office and could not be disciplined or removed from Office if the six month time period has elapsed before the offence is discovered. This seems inconsistent with other disqualification provisions, such as merely being indebted to the council for outstanding rates.

The exclusion of interests in non-profits from the conflicts of interest that have to be declared under section 73 is problematic. Interests in non-profit Associations and Aboriginal Corporations can represent control of substantial financial benefits for individuals and their families through the employment, use of moneys received by the organisation for community initiatives that favour particular persons or groups, particularly in remote communities where alternative employment opportunities and financial resources are limited. The exclusion is inconsistent with ensuring public trust that decision-makers will be fair and impartial, and creates confusion where it conflicts with a Code of Conduct that requires such interests to be declared. It is not a common exclusion in other jurisdictions.

The Commissioner recommended that the Department consider amendments, either separately or as part of an existing review of the Local Government Act, to address the identified issues.

## **Unauthorised Benefits**

The PID investigated an allegation that the senior officer in a Council-owned subsidiary had misused the subsidiary's credit card for personal use, including providing gifts and hospitality to family. It was further alleged that he had arranged for personal educational and corporate memberships to be paid for by the subsidiary without the required approval of the Board of Directors, as stipulated in his employment contract.

With the assistance of the Department of Local Government's Compliance section, other accounting anomalies were discovered. The Commissioner formed the view that these matters would be more appropriately dealt with by Police and the file was formally referred to them.



## Reprisal Protections

The welfare of the discloser is a high priority and where possible, regular contact is maintained during the investigation and subsequently as required. Some disclosers wish to remain anonymous in which case we cannot contact them.

Many legislative protections are provided to disclosers. A person cannot be sued or sacked from the public sector for reporting improper conduct to the Commissioner or assisting with the investigation provided their information is truthful to the best of their knowledge. If they feel vulnerable remaining in their current job, they can obtain the Commissioner's assistance to be relocated either within the public body or to another public body.

The Act also provides protection against reprisal action taken against a person because that person or a third person:

- has made or intends to make a public interest disclosure; or
- has complied with or intends to comply with, a requirement imposed by a person acting in an official capacity; or
- has cooperated or intends to cooperate with a person acting in an official capacity.

Criminal penalties can be imposed for committing a reprisal action including a maximum 2 years imprisonment. The person who commits the act of reprisal may also be liable in damages to the other person. The Commissioner has developed guidelines and protocols to assist in the protection of disclosers and to minimise the chance of reprisal action.

It is quite rare for the Commissioner to receive a complaint about an act of reprisal and this year there were no formal complaints received.

## Matters Still Under Investigation as at 30 June 2016

As at 30 June 2016, there were 17 public interest disclosure complaints that were still in the process of being assessed, investigated or finalised. They will be carried over for completion in the 2016/17 year. They include 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 17 complaints can be summarised as follows:

- 12 complaints are undergoing detailed assessment before a decision is made regarding them; and
- 5 complaints have been accepted as public interest disclosures and are currently being investigated.
- Of the five matters currently under investigation, three have been classified as 'major investigations'.

# Public Interest Disclosures - Performance measures

## Introduction

Budget Paper No 3 sets performance measures for the Office for 2015-16 relating to quantity, quality and timeliness. The summary below details the performance of this Office over the reporting period.

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.

## Quantity – Public Interest Disclosures received

### Quantity remains high

The total number of new disclosures handled by this Office during the reporting period is higher than previous years (see table below). It is not possible to know why this is so, however the office did receive a lot of media coverage in the 2014-15 period due to several high profile investigations.

Performance Measure	2013-14 Actual	2014-15 Actual	2015-16 Actual	2016-17 Estimate
Public Interest Disclosures handled	65 34 new 31 carried over	50 31 new 19 carried over	66 48 new 18 carried over	60

## Timeliness – Public Interest Disclosures resolved or reported

We aim to resolve 70% of complaints within six months. During this reporting period, 76% of disclosure files were completed within the six-month timeframe compared with 56% during 2014-15 and only 50% during 2013-14. This was the result of a number of issues including the implementation of an accelerated triage system to assist in finalising less complex matters more promptly, the introduction of a new case management system, and a concerted and dedicated effort from PID investigators.

Performance Measures	13-14 Actual	14-15 Actual	15-16 Actual	16-17 Estimate
Timeliness Disclosures resolved or investigation reports presented to the responsible authority within six months	50%	56%	76%	70%

## Quantity and quality – awareness and training

Although the investigation of complaints and the protection of disclosers are our major priorities, an important objective for this Office is the education of disclosers, public officers and public bodies regarding their rights and obligations under the PID Act.

The Office continued to provide both public awareness sessions for the broader community and training sessions tailored to the specific concerns of various public bodies. Most of our public officer training is a direct result of vulnerabilities highlighted in investigations.

In 2015-16, face-to-face training sessions took place in Darwin, Palmerston, Katherine, Nhulunbuy and Alice Springs with a total of 181 participants from a variety of public bodies including government departments, and urban and regional councils. It remains our aim to deliver this training to public officers throughout the NT and the training sessions, which were specifically tailored to the needs of each audience, were well received. Of the 181 participants, 91 participants hailed from Darwin and Palmerston, and 90 were in remote areas.

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. 79 separate training modules were successfully completed via the website over the reporting period. In previous years there was a far greater use of this on-line training package and the office hopes to review the on-line training facility during the coming year to ensure it remains current, useful and user-friendly.

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

Performance Measures		2015-2016 Estimate	2015-2016 Actual	2016-2017 Estimate
Quantity	<b>Awareness and training</b>			
	Face-to-face presentations	10	10	10
	Number of participants – including online	400	260	400
Quality	Participant satisfaction *	90%	96%	90%

\* for face-to-face training



## Reporting requirements under section 48 of the Act

Section 48 of the PID 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 2015-16, this Office handled 66 disclosure complaints with 48 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 or concerns serious systemic issues, the improper conduct is extended to the whole organisation.

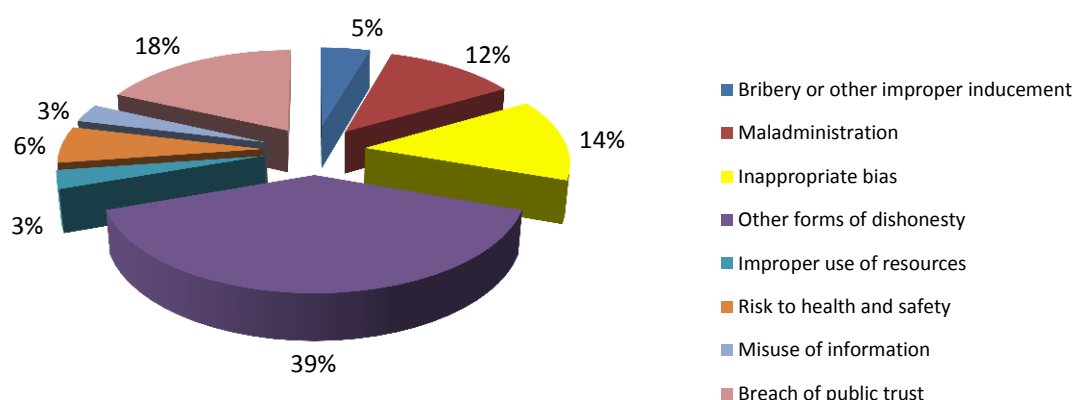
Approximately 77% of the new disclosures related to alleged incidents that were either ongoing or occurring within 12 months prior to the disclosure being made. Nine of the matters handled were referred to the Commissioner by responsible Chief Executives or persons acting under delegation to do so, (who are required to refer any public interest disclosure made to them within 14 days). This is a pleasing acknowledgement of the professional working relationships that exist between the PID office and NT public bodies generally.

### 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.

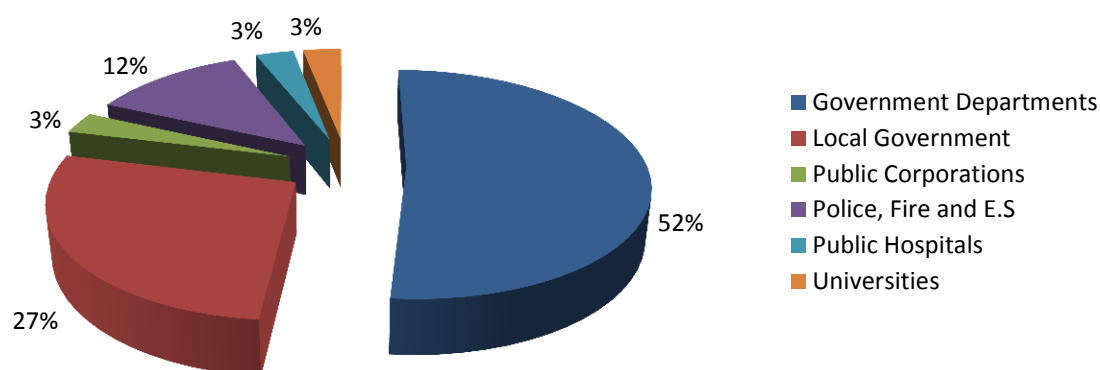
**2015-16 Disclosures by Type**



## 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 of public officers.

**2015-16 Disclosures by public body**

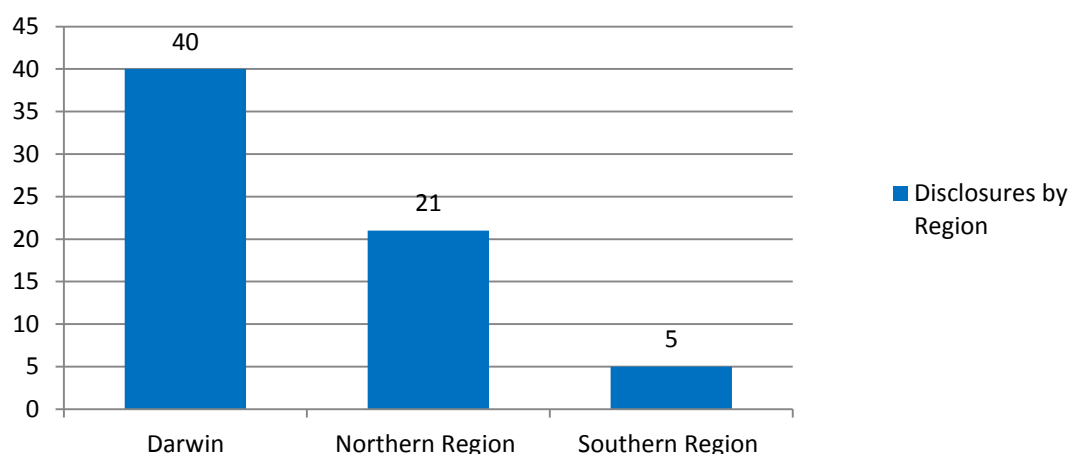


## Disclosures – by region

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.

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.

**2015-16 Disclosures by Region**

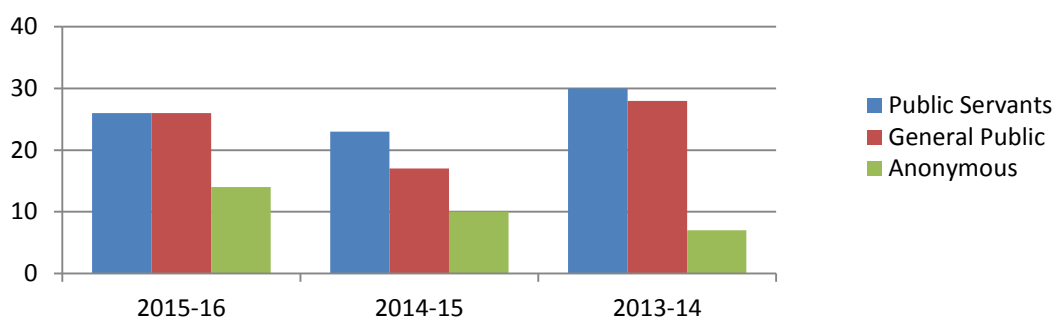


## Who are the allegations coming from?

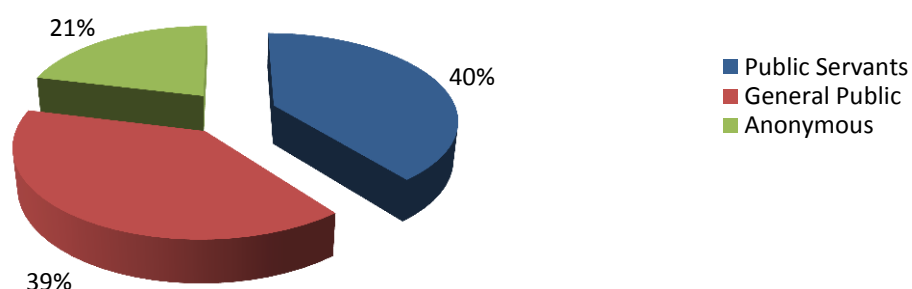
### Disclosures – by source

Allegations of improper conduct were received from both public officers and the general public. There has continued to be a significant increase in the number of anonymous complaints filed over the past three years. Most anonymous complaints were received via the online complaint form. However, many of those complainants who chose to be anonymous provided some means of contacting them (via email or phone) and ultimately identified themselves as their complaint progressed.

**3 Years Source of Disclosures**



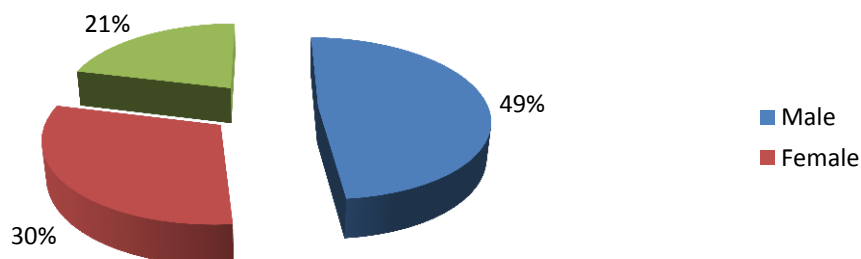
**2015-16 Disclosures by Source**



### Disclosure – by gender

Of the total number of disclosures handled during the reporting period, 49% were made by men, 30% by women, and 21% were anonymous complaints. The percentage of female complainants has risen considerably over this reporting period and the percentage of male complainants has dropped accordingly.

**2015-16 Disclosures by Gender**



## **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 PID Act. In the 2015-16 reporting period, the Commissioner received no public interest disclosures from the Speaker of the Legislative Assembly. This is consistent with previous reporting periods.

## **Public Interest Disclosures handled and number resolved.**

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

As at 30 June 2016, 66 disclosure files had been handled during the reporting period.

Of those matters, 49 disclosure files had been resolved and 17 remained active. A breakdown is as follows:

- 12 matters were assessed as public interest disclosures that required investigation.  
Of these:
  - 7 investigations were completed during the reporting period. Two were major (Level 3) investigations requiring considerable resources in excess of 400 hours. The five others completed were classified as a Level 2 investigation taking between 80 to 160 hours to complete. One of the investigations completed also contained information of a criminal nature and that component was referred formally to the DPP and ultimately the NT Police Force for further investigation;
  - One investigation is close to completion. This matter was classified as a major (Level 3) investigation requiring considerable resources. A preliminary report pursuant to section 30 of the Act was served and responses have been received from individuals who were the subject of potential adverse comment. These responses will be fairly represented in the final section 31 report;
  - 4 other investigations are continuing;
- 4 matters were the subject of preliminary assessment/investigation but were ultimately referred to other bodies for investigation;
- 12 matters were still in the assessment stage; and
- 38 matters were assessed and ultimately rejected by the Commissioner on the grounds that they were not matters attracting the protections of the Act.

## Referral of investigations to other bodies

Section 22 of the Act allows the Commissioner, when it is deemed appropriate to do so, to formally 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 matter has been assessed by this office and deemed to be sufficiently serious to be declared a public interest disclosure. Before a matter can be formally referred, the discloser must be given the opportunity to comment on the proposed course of action. The discloser's comments are considered by the Commissioner when making a decision to refer. Once referred, the receiving body exercises its own powers of investigation and the PID Act no longer applies to the referred investigation. The discloser however, retains his or her protections against reprisal under the PID Act. Throughout the reporting period, the Commissioner made four formal referrals to the bodies listed above.

## Politicians and their staff

Section 7 of the PID Act defines the meaning of 'public officer' for the purposes of the Act. Section 7(1)(a) of the Act confirms that a Member of the Legislative Assembly is a public officer, however any complaint about an MLA cannot be made directly to the Commissioner. The Commissioner may only receive a disclosure concerning an MLA from the Speaker of the Legislative Assembly. Ministerial Advisors and staff do not generally fall within the definition of 'public officer' and their conduct cannot be investigated by the Commissioner.

During the 2015-16 period, the Commissioner received five disclosures of information that included allegations of improper conduct by MLAs and/or their staff. None of these disclosures were received from the Speaker. The Commissioner considered that those matters concerning allegations of improper conduct by MLA's and their staff should be considered by the Police and, with the permission of the disclosers, they were informally referred to the NT Police Special References Unit.

## Informal Referrals

Some allegations received did not amount to "improper conduct" but were important enough to require further 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 informal process to refer:

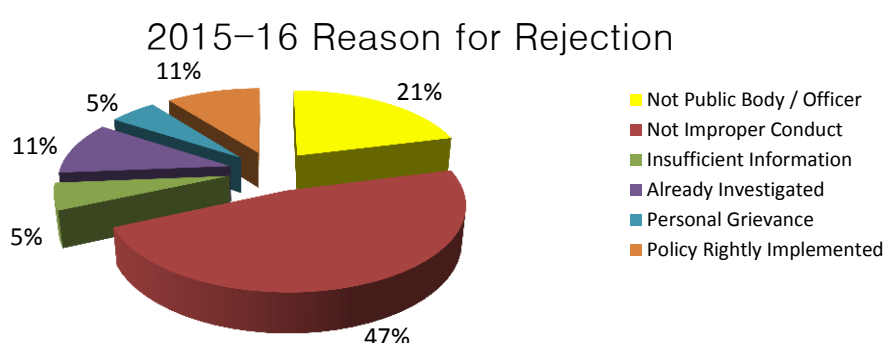
- 7 matters to the NT Police Special References Unit;
- 1 matter to the Auditor General;
- 1 matter to the Commissioner for Corrections;
- 1 matter to the Health and Community Services Commissioner; and
- 1 matter to the Department of Local Government and Community Services.



## Public Interest Disclosures not investigated

The assessment stage of any complaint is an important one. Some disclosure complaints can be dealt with promptly 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 38 disclosures ultimately rejected or informally referred by the Commissioner:

- 47% were assessed as not involving ‘improper conduct’;
- 21% were assessed as not relating to a ‘public officer’ as defined by the Act;
- 11% were assessed as allegations about policy decisions of a public body or public officer that they were entitled to make or could not be investigated under the Act;
- 11% had already been adequately investigated;
- 5% were assessed as personal or employment related grievances; and
- 5% were unable to be assessed due to insufficient information being provided or obtainable.



## 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.



## Freedom of Information and Privacy

## Introduction

The *Information Act* ('the Act') is the Northern Territory legislation governing freedom of information, privacy, and public sector records.

This reporting period, the Government introduced legislation to refer the complaints that are not resolved by mediation or investigation to the Northern Territory Civil and Administrative Tribunal (NTCAT). This applies to complaints received after 1 May 2016. The Information Commissioner will continue to conduct hearings as required for complaints received before that date. As a result of the amendments, the Information Commissioner now has greater coercive powers to obtain evidence at the investigation stage of a complaint, and can consequently explore issues more fully before they progress to hearing. At this stage the new model is not anticipated to reduce the Commissioner's workload because hearings have always been a relatively small component of the Commissioner's workload.

## Freedom of Information

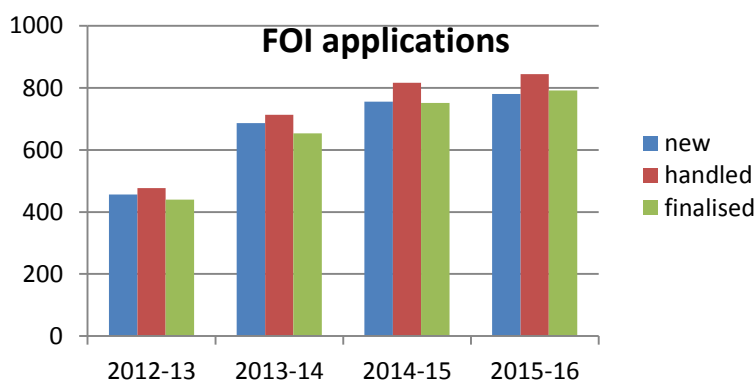
The *Information Act* creates schemes which allow people to access government information (sometimes referred to as 'freedom of information' or FOI), and which protects the privacy of individuals by imposing controls and standards on public sector organisations that handle their information.

The Commissioner's role is to investigate and adjudicate complaints about decisions made under these schemes, and to provide education, advice, and some general oversight of compliance with the schemes.

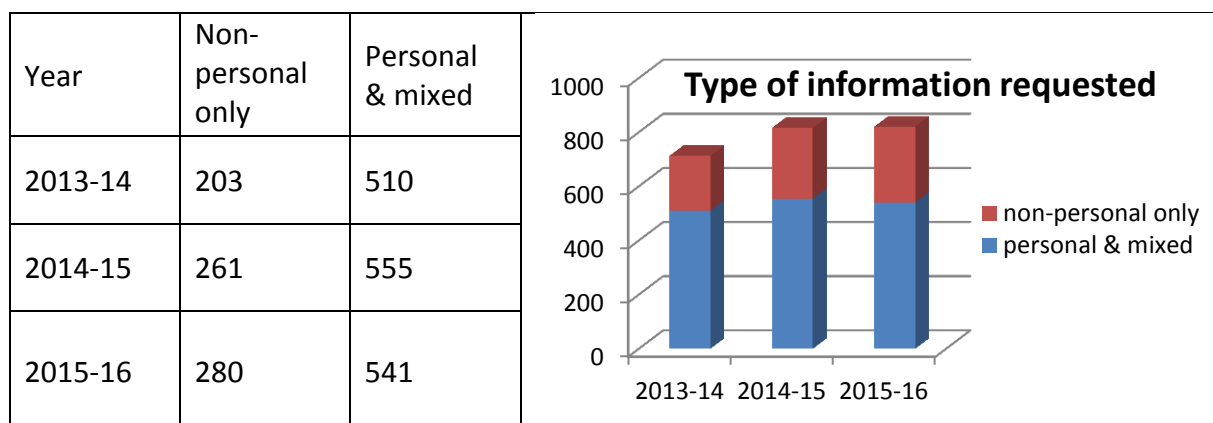
Section 98 of the *Information Act* requires the Commissioner to report annually to the Minister on the operations of the Office. To meet these legislative requirements, the Office collects data about FOI access applications, correction applications and internal review applications from all NT public sector organisations. The raw data is available in the tables at Appendix 3. The information below gives a general overview of that data.

### FOI applications received and handled by public sector organisations

780 new applications for information were lodged across the public sector in this reporting period, representing a sustained trend of greater use of the freedom of information process over the past four years.



Organisations received 324 more FOI applications to process during this reporting period when compared with 2012-13 numbers. Anecdotal evidence suggests that some organisations are feeling the strain of this increased pressure on their FOI resources, particularly when the increase in requests for non-personal information means that the task of processing the applications can be more challenging. Over the past 3 reporting periods, information has been obtained from public sector organisations on the number of purely non-personal applications received by them. The table below discloses an increase.

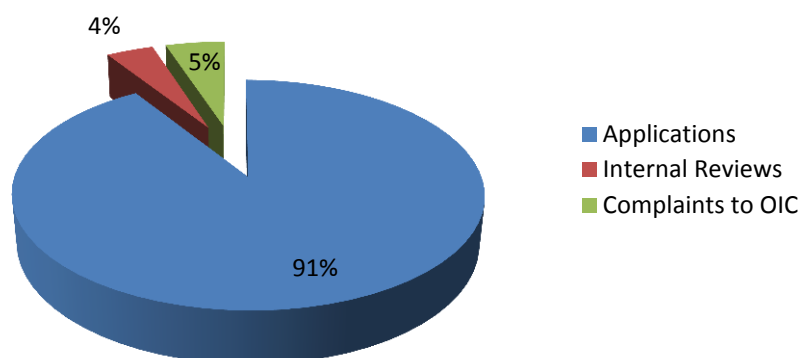


To explore this trend further, organisations were asked to indicate the extent to which the applications they received for purely non-personal information were of a political, media, activist or lobby group nature. The intention was to gain insight into the extent to which the freedom of information provisions are currently being used by persons seeking information for political and policy reasons, as opposed to more private matters. Organisations indicated that 41% of applications for purely non-personal information were of this kind. Applications for information had been made by media organisations, political parties, lobby groups, and activist type organisations (notably environmental organisations). Proportionally high numbers of applications for non-personal information of this kind were received by Department of the Chief Minister, Department of Lands Planning and the Environment, Department of Mines and Energy, Department of Education, Katherine Town Council, and Northern Territory Electoral Commission.

The statistical results on total FOI application numbers confirm that by far the most applications continue to be made to Government Departments. Department of Housing continues to receive the highest number of applications of any public sector organisation (186 applications), followed closely by Department of Health (168 applications). Similar to previous years, large numbers of applications were also received by Northern Territory Police Fire and Emergency Services (96 applications), but this year the Department of Correctional Services also received a large number of applications (101 applications). Smaller organisations such as Councils and independent statutory offices continue to receive a small but steady number of applications when considered in aggregate, but individually they may only receive one or none in any given year. This can cause resourcing difficulties for small organisations in terms of maintaining staff with the expertise and capacity to process applications when they are received.

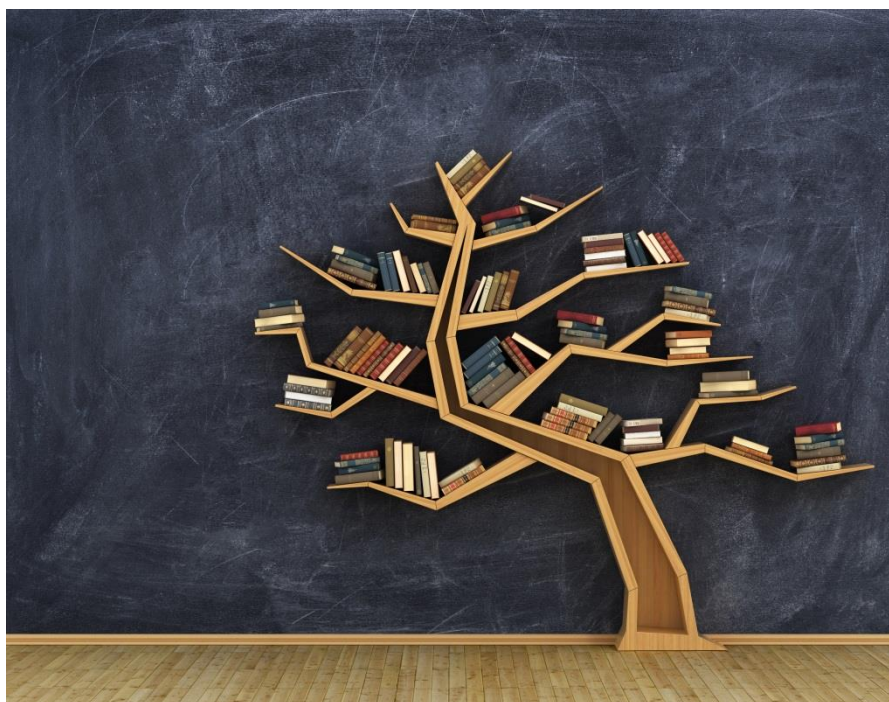
Similar to previous years, the scheme in the Act which allows persons to apply to correct their personal information is rarely utilised. Only 3 applications were received across the NT public sector this year to correct personal information.

## FOI matters by stage



The vast majority of applications continue to be resolved by organisations at the initial application stage, with comparatively few matters reaching the stages of internal review by the organisation or external complaint to our Office. It is of interest to note that very few matters are resolved by the internal review process. This year, 29 new internal review applications were lodged with various organisations and only 5 resolved via that process. The remaining 24 came to the Office of the Commissioner as new complaints. Under recent amendments, organisations are now able to refer an application for internal review directly to the Information Commissioner to handle as a complaint, and it will be interesting to see in future years how many organisations avail themselves of this expedited process.

Applications	91%	844
Internal Reviews	4%	33
Complaints to OIC	5%	46



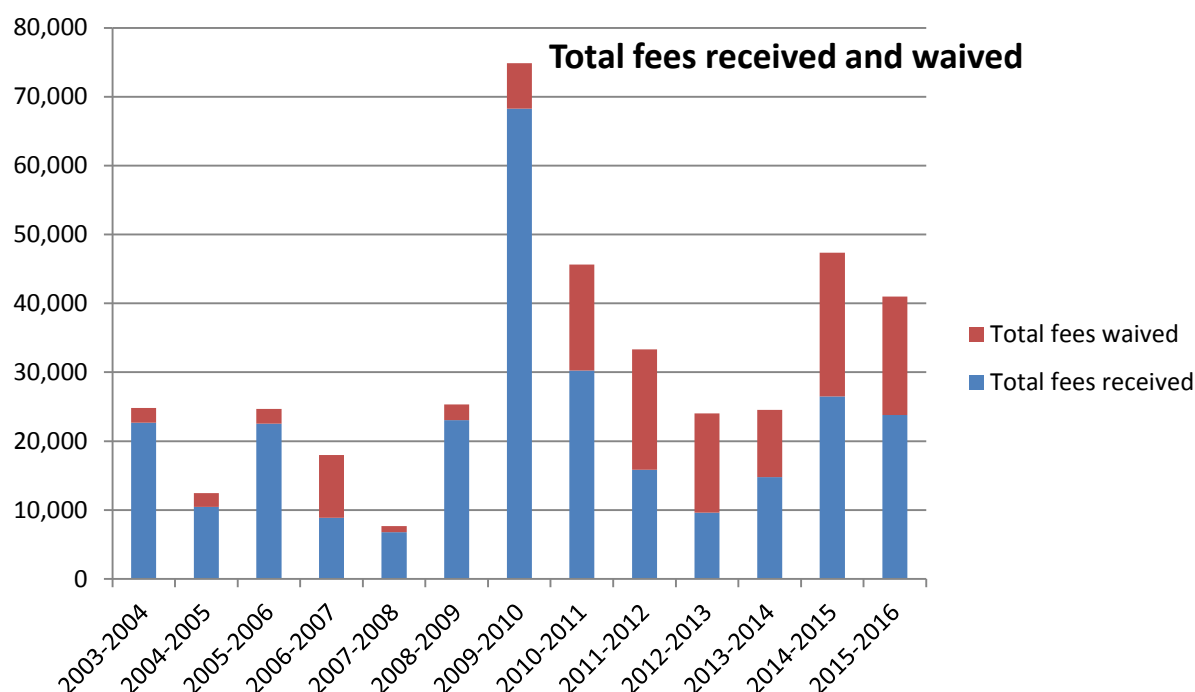
## Application and processing fees

The *Information Act* provides for application and processing fees. Similar to other jurisdictions, the maximum fees chargeable are set in legislation at a level well below that required for organisations 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 for requests for purely personal information. 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 requests would require organisations to spend more on administration than they could recoup in fees. Often it is in both the applicant's and the organisation's interest to waive fees in particular cases and it is difficult to comment accurately on the reasons for annual fluctuations in fees charged or waived.

Comparative table: Fees received and waived

	Total fees received	Total fees waived	Percentage waived
<b>2013-14</b>	\$14,761	\$9,770	40%
<b>2014-15</b>	\$26,469	\$20,891	44%
<b>2015-16</b>	\$23,788	\$17,179	42%

### Total fees received and waived since the start of the *Information Act*



## On what grounds was information not released?

The *Information Act* provides a number of exemptions that may be used by organisations to withhold information from release. Table 4 in Appendix 3 provides details of the type of exemptions used. The most widely used exemptions in this reporting period were those aimed at protecting:

- privacy of third parties (section 56) – relied on by 19 organisations;
- non-commercial information confidentially obtained (section 55) – relied on by 10 organisations;
- commercial in confidence information (section 57) – relied on by 9 organisations;
- preservation of the system of justice (section 49) – relied on by 9 organisations.

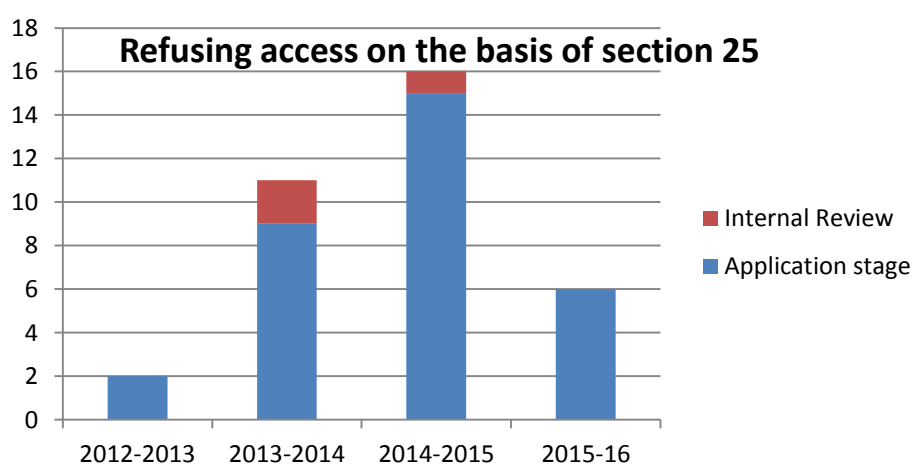
It is interesting to note that a large proportion of the information not disclosed is being withheld to protect the private or confidential information of individuals and businesses, rather than for reasons outlined in other exemptions available under the Act.

## Refusal because of Unreasonable Interference

Section 25 of the Act allows public sector organisations to refuse to provide access to information sought by an applicant because providing access would unreasonably interfere with the operations of the organisation. In 2013-14 and 2014-15, consistent with interstate trends, there was a significant increase in section 25 refusals by organisations. In recent times, this Office has conducted forums for public officers on the appropriate application of Section 25 and 2 final decisions by this Office have provided guidance.



It is of interest that in 2015-16, the trend has reversed somewhat, with section 25 used on only six occasions. This Office will continue to collect and publish statistics on this issue in future reporting.



## Number of FOI complaints and their outcome

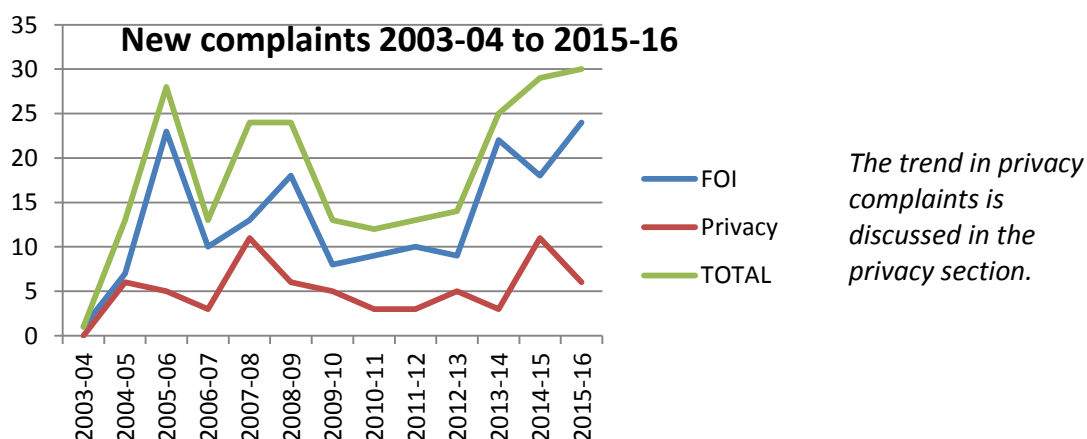
This year, the Office of the Information Commissioner handled a total of 46 FOI complaints, including 24 new complaints and 22 carried over from the previous year. Of the 30 matters that were resolved in the reporting period, only 3 required formal hearings. The table below sets out the outcomes for FOI complaints in this reporting period.

FOI Complaints to the Information Commissioner 2015-16									
PSO	Lodged*	Not accepted	Resolved informally	Withdrawn	Other: s103(2)	Prima Facie	Mediation	Hearing	Open at year end
AGD**	0(2)							1	1
COD	1(0)				1				
DAM	0(1)		1						
DCIS	1(0)		1						
DCF	0(1)		1						
DCM	5(1)		6						
DCS	1(2)	1	1				1		1
DLA	0(1)					1			
DLPE	1(0)		1						
DoE	4(4)	1				2	3	2	6
DoHe	4(9)	1		9					3
DME	2(0)								2
NTEC	1(0)					1			1
NTLAC	1(0)					1			1
PFES	1(0)								1
TIO	2(1)	2	1						
Total	24(22)	5	12	9	1	5	4	3	16

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

\*\* refer to Appendix 3 for details of acronyms for organisations

The number of complaints received by the Commissioner's office varies from year to year, making it difficult to predict future trends. A comparison of the annual number of complaints from the start of the legislation to the current year demonstrates this variation. The trend for FOI complaints seems to be upward despite a few 'dips' with the largest number of complaints received in the current reporting period, as illustrated by the following graph:



## Case studies

The case studies of complaints this year reflect statutory decisions at a range of different stages in the Commissioner's process. When a complaint is first lodged, a decision has to be made as to whether it is a valid complaint which can be investigated, in accordance with section 106. If a complaint is accepted, it is then investigated to determine if there is sufficient evidence to substantiate the complaint 'on its face' – this is known as a *prima facie* decision and does not involve weighing competing evidence or competing legal arguments where the law is unclear. Finally, if a complaint succeeds at *prima facie* stage and does not resolve at mediation, it is dealt with at a hearing, where the Hearing Commissioner makes findings of fact and resolves competing interpretations of the law.

### Case Study - The *Information Act* prevails in the event of inconsistency

#### Prima facie - *Information Act* s9

The Complainant sought documents from an organisation which he claimed would identify issues of impropriety concerning a juror in a criminal trial. The Complainant identified the juror by name in his application.

The organisation refused access on the ground that s 49B(2) of the *Juries Act* made it an offence to disclose information. The *prima facie* decision maker found that information could not be exempt from disclosure under s 49B(2) of the *Juries Act*, as it was not a category of exemption under the *Information Act*. Section 9 of the *Information Act* provides that the *Information Act* prevails to the extent of any inconsistency over other laws of the Territory.

The organisation had also refused access on the basis that the information was part of the deliberative processes of the organisation, and the information would 'inhibit frankness and candour in future pre-decisional considerations' by the organisation. The *prima facie* decision maker accepted that disclosure of the information would impact on the organisation in this way, and that the impact would be substantial, both on the organisation's operations and its ability to act in the public interest. The complainant argued that the information disclosed a particular sort of impropriety concerning the juror and the trial in question, and it was in the public interest for that impropriety to be disclosed. The *prima facie* decision maker found that there was no evidence to support the complainant's contention that such an impropriety occurred, and therefore this allegation did not raise any relevant public interest considerations.

The decision maker found there was insufficient *prima facie* evidence to substantiate the complaint and dismissed the complaint.

### Case Study – Information sought about a criminal conviction

#### Hearing - *Information Act* s56(1)(a)

A Complainant sought information held about a person's conviction for an offence which occurred over a decade previously. The documents sought included psychological reports, police interviews, and other documents. The Complainant already had a copy of the

sentencing remarks made by the court in relation to the conviction. The Complainant was successful at the *prima facie* stage and the matter was referred to mediation.

The mediation was unsuccessful and the matter was referred to hearing.

The Hearing Commissioner found that the sensitivity of most of the documents had lessened due to the passage of time and the fact that the detail of the offending was already in the public arena. The Hearing Commissioner found there was value in allowing the public and the victim of the offending in particular to scrutinise the police investigation. The Hearing Commissioner was not persuaded by the Second Respondent's argument that he had spoken to the Police in confidence and details of the investigation should remain confidential because he had pleaded guilty. The Hearing Commissioner determined all documents should be released to the complainant save a psychologist's report. The contents of the report remain 'very sensitive' and would be an unreasonable interference with the Second Respondent's privacy under s 56(1)(a) of the Act.

## **Case Study – Identification required by an applicant**

### **Decision to accept complaint – *Information Act* s 18**

The Complainant requested an organisation provide him with a copy of all personal information in both his current and former name. The organisation had refused to accept the application, stating it was invalid because they were not satisfied of the complainant's identity, and the application failed to sufficiently identify the information the Complainant was seeking.

The Commissioner's delegate found the application (and subsequent complaint) was valid. The organisation had a duty to be fair and reasonable in the way it processed applications in accordance with section 17 of the *Information Act*. Even though the application was broad and potentially might concern a large number of documents, the nature of the information sought by the applicant was clear. The application was therefore not invalid for lack of specificity. In terms of being satisfied as to the Complainant's identity, there was extensive evidence before the organisation as to the Complainant's identity, and its refusal to be satisfied about this issue was not fair or reasonable, notwithstanding that one of the Complainant's identification documents was arguably not properly certified.

The complaint was accepted for investigation, however the investigation was suspended while the parties were given the opportunity to negotiate the scope of the application.

## **Case Study – Onus on organisations to justify non-disclosure of information**

### **Prima facie – *Information Act* ss 45(1)(a)(ii), 55, 56(1)(a)**

The Complainant was an employee of the organisation that sought information relating to workplace issues that had involved himself. The Respondent treated the complaint made under s 103 as an exhaustive list of issues that it was required to address, and opted not to provide submissions establishing various exemptions as requested by the Commissioner's delegate.

The Commissioner's delegate found there was sufficient *prima facie* evidence to substantiate the complaint in a number of respects, largely because the onus rested on the Respondent to show that certain exemptions applied, and insufficient information had been provided to show those exemptions applied. For example, the Respondent argued that four pages were exempt under s 45(1)(a)(ii), but provided insufficient information to show the document related to a matter to be considered by an Executive body. The Respondent sought to argue that s 55 applied to exempt some information, but did not provide any evidence to show that the information in question had in fact been communicated in confidence. While sometimes evidence of an exemption can be derived from the documents themselves, this is not always the case. The legislative scheme as a whole places the onus on an organisation to defend a decision not to disclose information, not on a Complainant to guess at the technical merits of the Respondent's position. The Complainant is not typically privy to all the Respondent's reasoning, and is not able to view the information to which the Respondent is applying the law.

The Complainant was referred to mediation but the mediation has been unable to progress because there are related court proceedings on foot.

## **Case Study – Applicant seeking MLA emails**

### **Hearing Decision, *Information Act* s5(6)**

The Complainant sought emails from the email accounts of Members of the Legislative Assembly. The Complainant made applications to the Department of the Chief Minister and to the Department of Corporate and Information Services. The Department of Corporate and Information Services, which maintains information technology infrastructure on behalf of the Northern Territory Government, transferred the application to the Department of the Legislative Assembly on the basis that the information originated from and was more closely related to the operations of that public sector organisation. The Department of the Chief Minister located no relevant emails in its possession.

The Commissioner's delegate followed *Parnell and Prime Minister of Australia (No 2)* [2011] AICmr 12 (23 December 2011) where it was found that: 'An underlying premise of the FOI Act is that not all documents held in a minister's office will be subject to the FOI Act. The Act applies only to "official documents" that relate to the affairs of an agency or department'. The documents sought in this case concerned correspondence regarding political party matters. Given that this was the subject matter, and the Complainant referred to the MLAs as MLAs and not as Ministers, the 'inescapable conclusion is that access to the information requested relates to the three named individuals in their capacity as MLAs and not as ministers holding government information connected with their responsibilities as the holders of that office.'

Such documents were out of scope of what could be requested under the FOI scheme, and hence the delegate dismissed the complaint for insufficient *prima facie* evidence.

## **Improved Information Management Systems Help FOI Processing**

The Information Commissioner has observed an increased interest within individual organisations and the public sector generally in maintaining safe and accessible information management systems. This Office has received many requests for advice about the use by organisations of 'cloud-based' information management systems as they are often viewed as a cost effective option. There is no reason why cloud-based systems should not be considered but organisations must ensure that they comply with the relevant security guidelines and the Information Privacy Principles and that they undertake a privacy risk analysis before they implement any new systems that hold personal information.

The NTG Enterprise Vault is another system designed to assist agencies in retaining a safe and accessible storage system for emails. The introduction of the email vault will hopefully minimise requests for access to information held on disaster recovery back-up tapes. Recovering emails from the back-up system is a time-consuming and expensive process and in some other jurisdictions, back-up tapes are specifically excluded from the definition of a record. The Information Commissioner recently sought information from organisations as to the extent to which requests for back-up tapes were impacting on them. Four organisations responded that they had received requests for information from back-up tapes, however only one organisation appears to have been particularly impacted in a significant way as a result of these requests. This organisation spent almost 100 hours in handling back-up tape requests and over \$15,000 in costs incurred in retrieving information from back-up tapes. It is interesting to note that this organisation manages its email systems separately from other NTG systems, and does not currently have alternative processes for retrieval of deleted emails such as the Enterprise Vault. By contrast, the other three organisations which had received requests indicated that they had spent in total 12 hours processing such requests and had incurred no additional costs.

The Information Commissioner is aware that there may be significant levels of non-compliance with official records management policies with respect to storage of emails across the NTG. The manner in which email is used means that email accounts tend to include vast quantities of personal information and ephemeral information mixed in with records of value. The records of value are not necessarily being captured into the official records management system, leaving them 'buried' in accounts assigned to individual users and potentially forgotten upon their departure from an organisation. Poor systems, processes and procedures regarding the capture, classification and disposal of emails creates risks and costs to the NTG with respect to retaining reliable corporate records. It may be a worthwhile exercise for the NTG to investigate the extent of this non-compliance and its causes in order to improve relevant systems and practices.

# Privacy



The Office is the ‘privacy watchdog’ for the Northern Territory public sector. It investigates and adjudicates privacy complaints made against public sector organisations, provides education and policy advice to organisations and individuals regarding compliance with the Information Privacy Principles (IPPs), and considers applications by organisations for exemptions from certain aspects of the IPPs.

## Number of privacy complaints and their outcome

Six new privacy complaints were made to the Commissioner during this reporting period, and five complaints were carried over from 2014-15.

Of the 11 complaints handled, three could not be accepted because they did not meet the provisions of s104 of the *Information Act*, either because they had not requested the organisation to resolve or rectify the matter complained of, or because the organisation that they believed to have breached their privacy is not a public sector organisation in the Northern Territory and therefore not covered by the provisions of the Act. Also, the Complainant must be able to provide a sufficient indication or some basic proof that a breach of privacy has occurred. This is because the onus of proof in a privacy complaint shifts to the Complainant and before an organisation is asked to defend or explain its actions, there should be a clear indication of a breach.

During the reporting period, two complaints were withdrawn for personal reasons impacting on the Complainant. The remaining three investigations resulted in *prima facie* decisions being made. If an investigation finds sufficient substance in a complaint for the Complainant to be able to make a case should the complaint progress to hearing, the Commissioner must refer the matter to mediation. If there is insufficient evidence to substantiate the matter complained of, the Commissioner must dismiss the matter. Two of the three complaints that resulted in *prima facie* decisions were dismissed and the third complaint was referred to mediation. As it did not settle, the matter was decided at hearing.

The remaining new complaint received during this reporting period has not yet been accepted because the Complainant needs to provide additional information.

While there has been a general increase in FOI complaints in recent years, the number of privacy complaints has remained fairly steady.

Privacy Complaints to the Information Commissioner – 2015-16								
PSO	Lodged	Not accepted	Withdrawn	Prima Facie	Mediation	Hearing	Not yet accepted	Open at year end
AGD	1 (0)	1						0
CoD	1 (0)			1				0
DOB	0 (1)	1						0
DoHe	2 (3)		2	1				3
DOI	0 (1)			1	1	1		1
DOT	1 (0)	1						0
PFES	1 (0)						1	1
TOTAL	6 (5)	3	2	3	1	1	1	5

## Case studies

After investigation of a complaint, a delegate of the Commissioner makes a *prima facie* decision as to whether a privacy complaint should proceed to hearing. This preliminary decision is always made by a different person to the decision maker who conducts the hearing for the same matter, and so does not in any way reflect a pre-judging of the hearing issues by that decision maker. However, since many matters settle before hearing, it can be useful to discuss the content of some *prima facie* decisions to illustrate the kind of issues raised by complainants.

### Case Study – Referee Report or Gossip?

#### Hearing Decision, IPP 2

A public sector organisation obtained confidential information about an employee that led to his employment being terminated. That day a staff meeting was called in which some of this confidential information was allegedly communicated to other staff during an explanation of the employee's departure. The employee alleged that his personal information had been used for an unauthorised purpose in breach of IPP 2. The Hearing Commissioner found that the confidential information had been gathered in order to determine whether the employee could be employed, and consequently a 'limited level of disclosure to relevant employees' of the reasons why the employee could not be employed was a related secondary purpose permitted by IPP 2.1(b). It was relevant that the information shared was limited to the minimum necessary to explain the employee's sudden departure, and did not include sensitive information.

The employee further alleged that another employee of the organisation (Person A) had a conversation about his personal information with a person external to the Department. Conflicting eye witness accounts were given as to what, if any, conversation had taken place. Person A characterised the conversation as an 'informal reference' about the employee's suitability for a job external to the organisation. The Hearing Commissioner found that much of the conversation was not subject to the IPPs because it concerned information that was not recorded, and that the IPPs only applied to the treatment of personal information found in government records. However, some of the information was derived from government records and hence was subject to the IPPs. It would have been permissible to disclose this information in a referee report, however the Hearing

Commissioner found that as a matter of fact that Person A was not providing a referee report, but rather having a ‘collegiate conversation’ or gossiping. This particular aspect of the conversation was found to be breach of IPP 2.1.

The Commissioner found that the impact of the breach on the employee was limited to non-economic loss and ordered the organisation to pay the employee a small amount in compensation for the impact on the employee’s feelings and well-being.

## **Case Study - Personal information shared within work organisation**

### **Prima facie, *Information Act* IPP 2, IPP 5**

The Complainant reported anti-social behaviour in her community to her local Council. The Council sought to take action in relation to the anti-social behaviour. The Complainant alleges that one of the Council’s staff made a comment to her that showed they knew that she was the complainant. The Complainant alleged that the fact that her identity had been passed on to this council worker was unnecessary and was in breach of IPP 2. It was apparent that the Council had internal discussions about the complaint in the course of responding to it, and that those discussions included mention of the Complainant’s name. The *prima facie* decision maker formed the view that the organisation had used the Complainant’s information for the purpose for which it had been collected, namely to deal with the anti-social behaviour, and as a result there was no breach of the IPPs.

The Complainant also argued that the organisation had failed to make available to the public and to her in particular a document in which it clearly expresses its policies for managing personal information, in breach of IPP 5. While it appeared that the organisation had inadvertently failed to include one of its policies in an email to the Complainant, the policy was generally available on its website (subject to occasional server difficulties) and there was therefore no breach of IPP 5. The complaint was dismissed.

## **Case Study – Complaint of Inappropriate Access to Personal Files**

### **Prima facie, *Information Act* IPP 2 and IPP 4**

The Complainant worked for an organisation that provided a service that involved collecting personal information of members of the public. The Complainant accessed the services of the organisation in a personal capacity, and provided the organisation with his sensitive personal information.

The Complainant alleged that he started to experience bullying in the workplace by a co-worker who had inappropriately accessed his personal information. He produced a log sheet of the relevant computer system that showed a number of his co-workers had accessed his personal information in that system.

The Complainant submitted that his personal information had been used for an unauthorised purpose (to bully him at work) in breach of IPP 2, and that the organisation had failed to take adequate steps to keep his information secure in breach of IPP 4. The Complainant’s case succeeded at the *prima facie* stage, and the matter was referred to mediation but is waiting on two related investigations to be completed before it can progress further.

# Freedom of Information and Privacy - Performance Measures

The performance against planned outcomes is measured by indicators, set out in Budget Paper No 3.

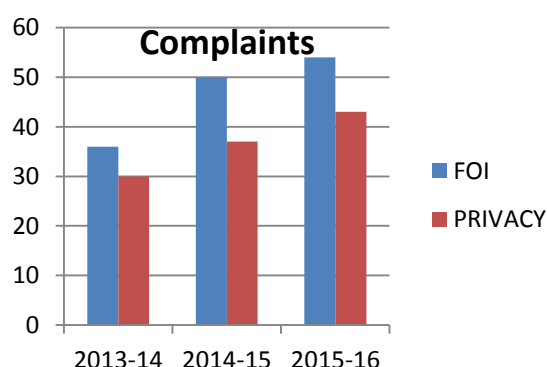
## Quantity – complaints

Performance Measures		15-16 Estimate	15-16 Actual	16-17 Estimate
<i>Quantity</i>	Complaints & applications received by the OIC			
	-FOI	20	43*	20
	-Privacy	6	11**	6

\* Includes 22 FOI complaints open at the start of the period

\*\* Includes 5 privacy complaints open at the start of the period

Full details of FOI complaints handled by this Office are reported on page 28 and 29 while Appendix 3 of this report contains the statistics of FOI applications from public sector organisations throughout the Northern Territory. The details of privacy complaints are reported on page 38 and 39.



## Timeliness – resolving complaints within 12 months

Performance Measures		15-16 Estimate	15-16 Actual	16-17 Estimate
<i>Timeliness</i>	Complaints finalised within 12 months			
	-FOI	15	20	15
	-Privacy	4	4	4

† 15 out of 29 (or 51%) FOI complaints were completed within the required time frame of 12 months

†† 4 out of 6 (or 66%) privacy complaints were completed in the required time frame of 12 months.

The Office does not always have a great deal of control over the timeframes within which complaints are finalised. This year, the reasons for delay included parties being difficult to organise at the same time to attend mediation sessions; a complainant with multiple complaints requiring extensions of time due to a serious medical condition; and additional time needed by an organisation to organise the materials it agreed to release at mediation.

## Quantity – training and awareness

Performance Measures		15-16 Estimate	15-16 Actual	16-17 Estimate
<i>Quantity</i>	Awareness and training presentations			
	-Number of presentations	20	27	20
	-Number of participants	250	446	250

These figures include the training conducted by Information Consultants Pty Ltd, as this Office coordinates and supports the FOI training courses.

## Quality – training, education and awareness

Performance Measures		15-16 Estimate	15-16 Actual	15-16 Estimate
Quantity	Stakeholder satisfaction with performance	80%	78%	80%

Participants and public sector organisations provide feedback following training sessions and public education events, ranking the quality of presentations on a five point scale. These results are then averaged and converted into a percentage.

## Quantity – Policy Hours

Performance Measures		15-16 Estimate	15-16 Actual	16-17 Estimate
Quantity	FOI and Privacy Policy hours (advices and audits)	650	708	650

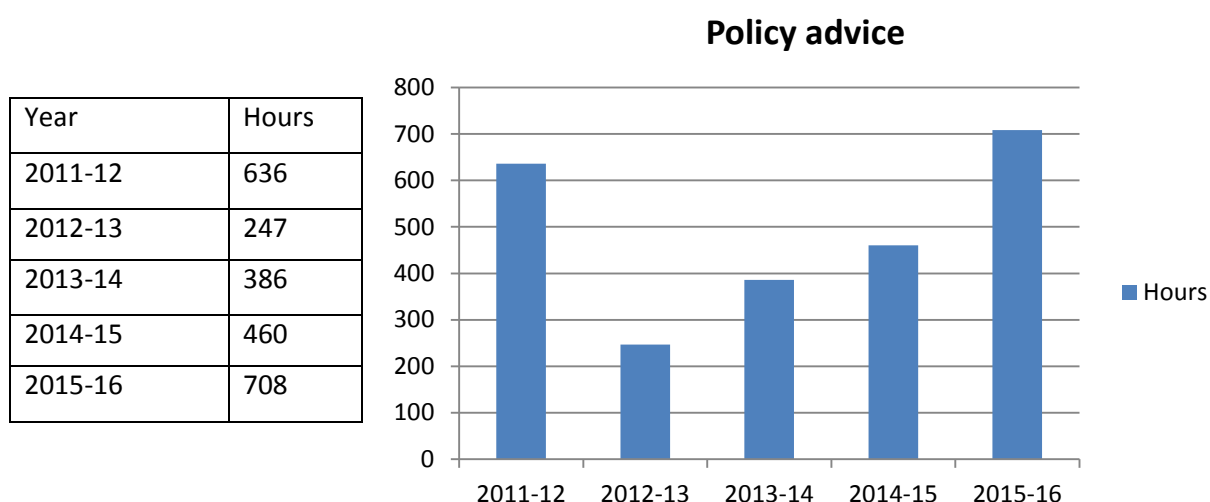
This year the estimate of 650 hours has been surpassed. Details of policy advice and assistance to public sector organisations in the Northern Territory during the current reporting period is reported on page 43.



## Policy Advice

One of the key roles of the Office is to provide expertise at an early stage so that projects are designed in a way that treats personal information with care. Advice is largely provided on an on-request basis, so the amount of advice provided fluctuates depending on the types of initiatives being developed by organisations and the extent to which the Office is approached for assistance.

This year was the Office's busiest year to date for policy work, providing 708 hours of Policy advice, the majority of which relates to privacy issues.



In addition to providing policy advice on demand, the Office provided proactive support in the form of a privacy audit of several large Departments, and the development of new guidelines and training materials. For example, the Office developed a public guideline on the changes to the complaints system as a result of the NTCAT Amendments.

Topics on which privacy policy advice has been given include:

- secretly recording conversations;
- issuing Grants of Authorisation under s 81 of the *Information Act*;
- liaison with the Ombudsman NT about referrals under s 108(1) of the *Information Act*;
- protecting information transferred to contract service providers, notably providers outside the NT;
- seeking information about a person's racial or ethnic background to implement and provide accountability in relation to 'special measures' programs;
- privacy-compliant survey design;
- proposed establishment of a public sex offender register; and
- encouraging sensible, safe information-sharing of personal information between organisations and others.

## Grants of Authorisation

A grant of authorisation may authorise a public sector organisation to collect, use or disclose personal information in a manner that would otherwise contravene or be inconsistent with the Information Privacy Principles. However, a grant will only be endorsed if the Commissioner is satisfied that it is in the public interest to do so.

This year, the Commissioner made a Grant of Authorisation to enable Northern Territory Police, Fire and Emergency Services to depart from the IPPs in order to use the systems of a third party to refer mandatory reporting incidents to the Department of Children and Families. The Commissioner made an interim Grant for one month as she was satisfied that the public interest outweighed to a substantial degree the interference with the privacy of persons that might result. Following stakeholder consultations, the Commissioner was satisfied that the Grant should be extended for a 2-year period (No 2 of 2016).

Grants of Authorisation are published: <https://infocomm.nt.gov.au/resources/decisions-and-case-notes>.

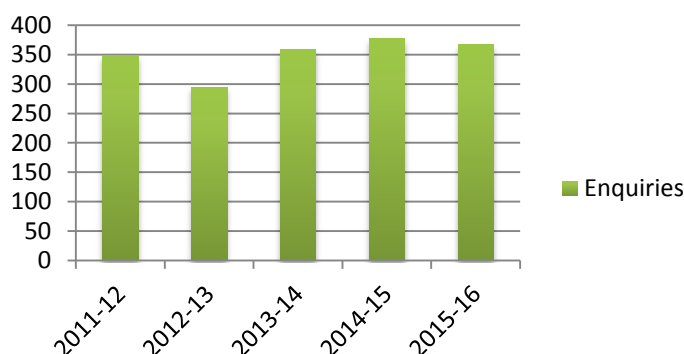


## General Enquiries

In addition to providing in-depth policy advice, the Office receives general enquiries via telephone and email from individuals in organisations and the community generally. During 2015-16, there were 367 such enquiries. The graph below shows that the number of enquiries has remained relatively stable over the last five years.

Number of general enquiries

Year	Enquiries
2011-12	349
2012-13	295
2013-14	358
2014-15	378
2015-16	367



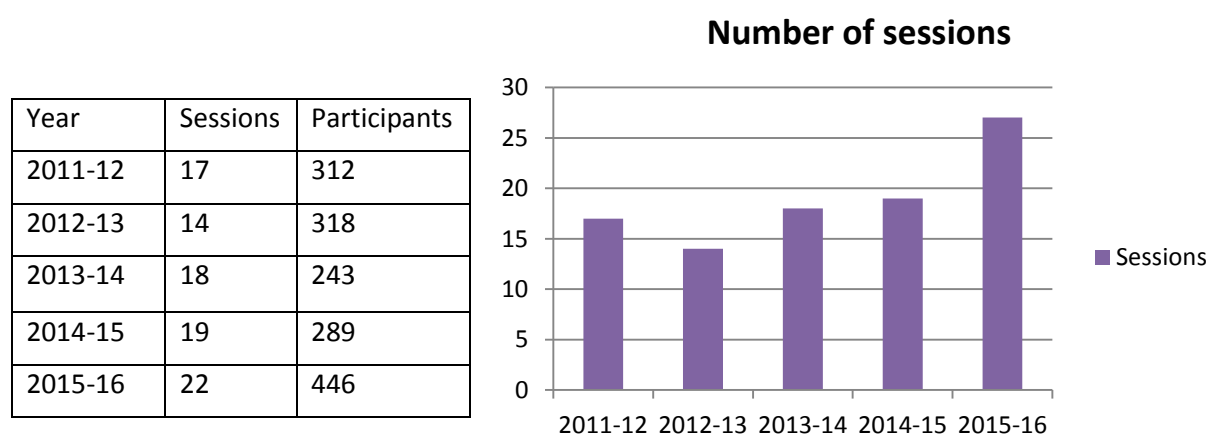
## Awareness, education and training

During 2015-16, the Office was involved in 22 training and 5 awareness-raising sessions with a total of 446 participants (at the training sessions). This accounted for 59.5 hours of training as follows:

- **Training sessions** for large and small groups, tailored to specific needs. The Office delivered 18 of these sessions including departmental inductions, introductory training on FOI and/or privacy, specific topic & groups sessions, and graduate training.
- **Information Forums** for public sector organisations were held in September 2015 and April 2016 and covered a range of topics useful to organisations such as recent FOI and Privacy decisions, and the amendments to the *Information Act* (no 29 of 2015) concerning the NTCAT. 72 people attended these forums.
- **Expert FOI training** for public officers from an interstate consultant in the form of a two-day course. Due to the increased interest, courses were conducted in Darwin in August 2015 and May 2016. 41 public sector employees completed the training.
- **Community awareness events** including an event in Senior's week, a promotional stand with other independent bodies at the NT Supreme Court Open Day and awareness raising events at middle schools and senior colleges in Darwin, Nhulunbuy and Alice Springs.

The Office once again took the opportunity to travel outside the Darwin region for training and awareness sessions in Alice Springs and Nhulunbuy during this reporting period.

The statistics confirm that more training sessions were provided to more public officers this year than in previous years as shown in the graph below. This increased interest no doubt reflects the increased number of FOI applications that organisations are currently required to deal with and the increasing awareness of the importance of privacy to us all.



Participants are invited to provide feedback on our training, and this forms the basis for rating one of our performance measures. Participant satisfaction this year was 78%, which is within the range for the last five year period (76% to 85%).

## APPA

Members of the Asia Pacific Privacy Authorities (APPA) Forum meet twice a year in one of the member countries. The Commissioner was able to attend the 45<sup>th</sup> Forum in Singapore in July 2016. The APPA website <http://www.appaforum.org/> provides details of all APPA members and notes Japan as the 19<sup>th</sup> and newest full APPA member.

APPA also joins together in the celebration of Privacy Awareness Week (PAW) which is held annually in May. APPA jointly develops communication materials to raise awareness during PAW. This year's product emphasised that people can maintain some control over their information with the slogan "privacy in your hands".

**PRIVACY**  
IN YOUR HANDS

Hong Kong once again kindly offered to develop the joint product, a set of 4 posters with messages to reinforce the steps people can take to maximise the protection of their privacy.



This year the Office also conducted activities to raise awareness of privacy issues with middle school students in relation particularly to social media use. This is the age when young people start to join and explore online communities, and develop their understanding and skills concerning online behaviour. The Commissioner and staff visited five schools in Darwin, Alice Springs, and Nhulunbuy, and at four of those schools, students were given the opportunity to take fun 'safe selfies' with their friends to promote privacy awareness online. The photos were taken using a photo booth and provided as hard copy prints so each individual participant retained control of their image, their identity and the message they were promoting. The Commissioner also spoke to students about the importance of online safety. The response from students and staff was positive and the initiative was considered a great way to celebrate Privacy Awareness Week.





# PRIVACY IN YOUR HANDS



Privacy?  
What Privacy?



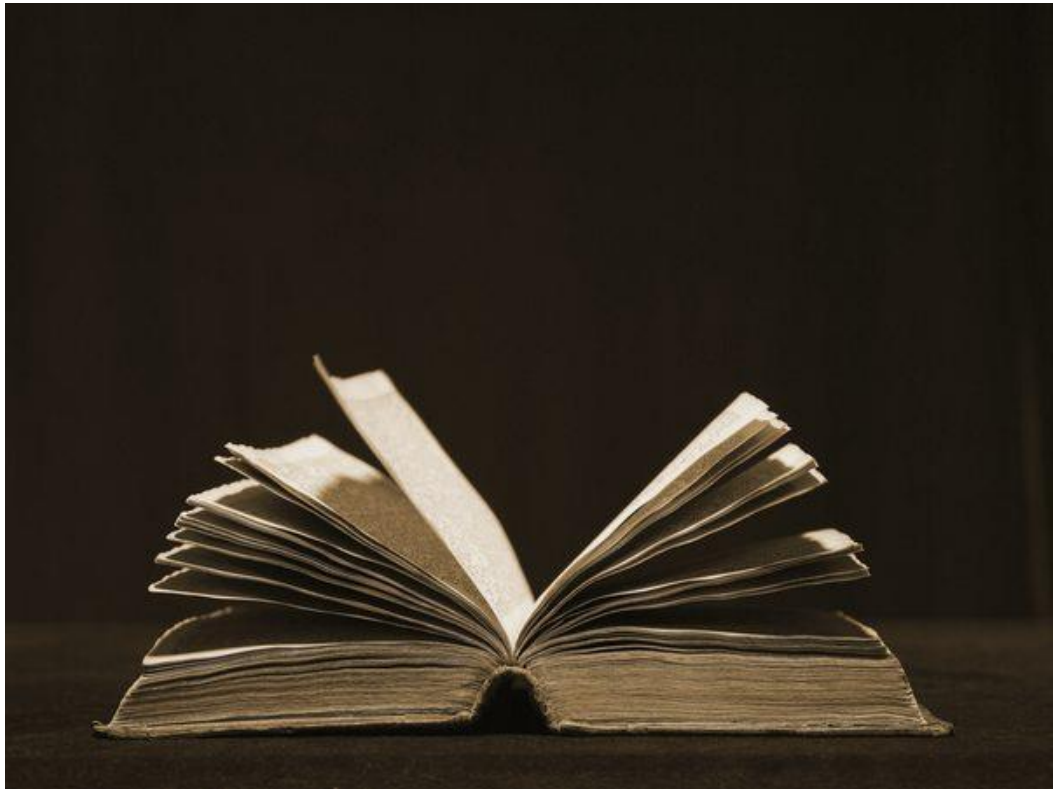
## PRIVACY Awareness Week



Promotional materials, such as brochures, water bottles, pens, notebooks, keyrings and stickers were popular at the event, and will remain as reminders for students and their parents of the event and the contact details for the Office for privacy enquiries.

### Website

The Office has redesigned and updated our website. The website provides relevant information about forthcoming events, past annual reports, guidelines, summarised decisions etc. For more information visit [www.infocomm.nt.gov.au](http://www.infocomm.nt.gov.au). The Office has also developed the content for the Freedom of Information section of the new [nt.gov.au](http://nt.gov.au) one-stop shop website.



## **APPENDICES**

# Statement of Financial Performance

For the year ended 30th June 2016

	2016 \$'000	2015 \$'000
<b>INCOME</b>		
Appropriation - Output	943	1 014
Goods and Services Received Free of Charge	105	103
<b>TOTAL INCOME</b>	<b>1 048</b>	<b>1 117</b>
<b>EXPENSES</b>		
Employee Expenses	916	840
Administrative Expenses		
Purchase of Goods and Service		
Repairs, Maintenance and Property Management	4	15
Accommodation	3	5
Advertising		1
Agent Service Arrangements	3	5
Communications	10	12
Consultants Fees	141	97
Consumables / General Expenses	4	3
Entertainment / Hospitality	1	
Information Technology Charges	43	41
IT Hardware and Software Expenses	9	13
Library Services	2	1
Marketing & Promotion	10	48
Medical/Dental Supply and Services	1	2
Memberships and Subscriptions	1	2
Motor Vehicle Expenses	5	7
Office Requisites and Stationery	5	2
Official Duty Fares	11	5
Other Equipment Expenses	12	16
Recruitment expenses		2
Training and Study Expenses	8	8
Travelling Allowances	2	2
DCIS Services Free of Charge	105	103
<b>TOTAL EXPENSES</b>	<b>1 296</b>	<b>1 230</b>
<b>NET SURPLUS / (DEFICIT)</b>	<b>-248</b>	<b>-113</b>

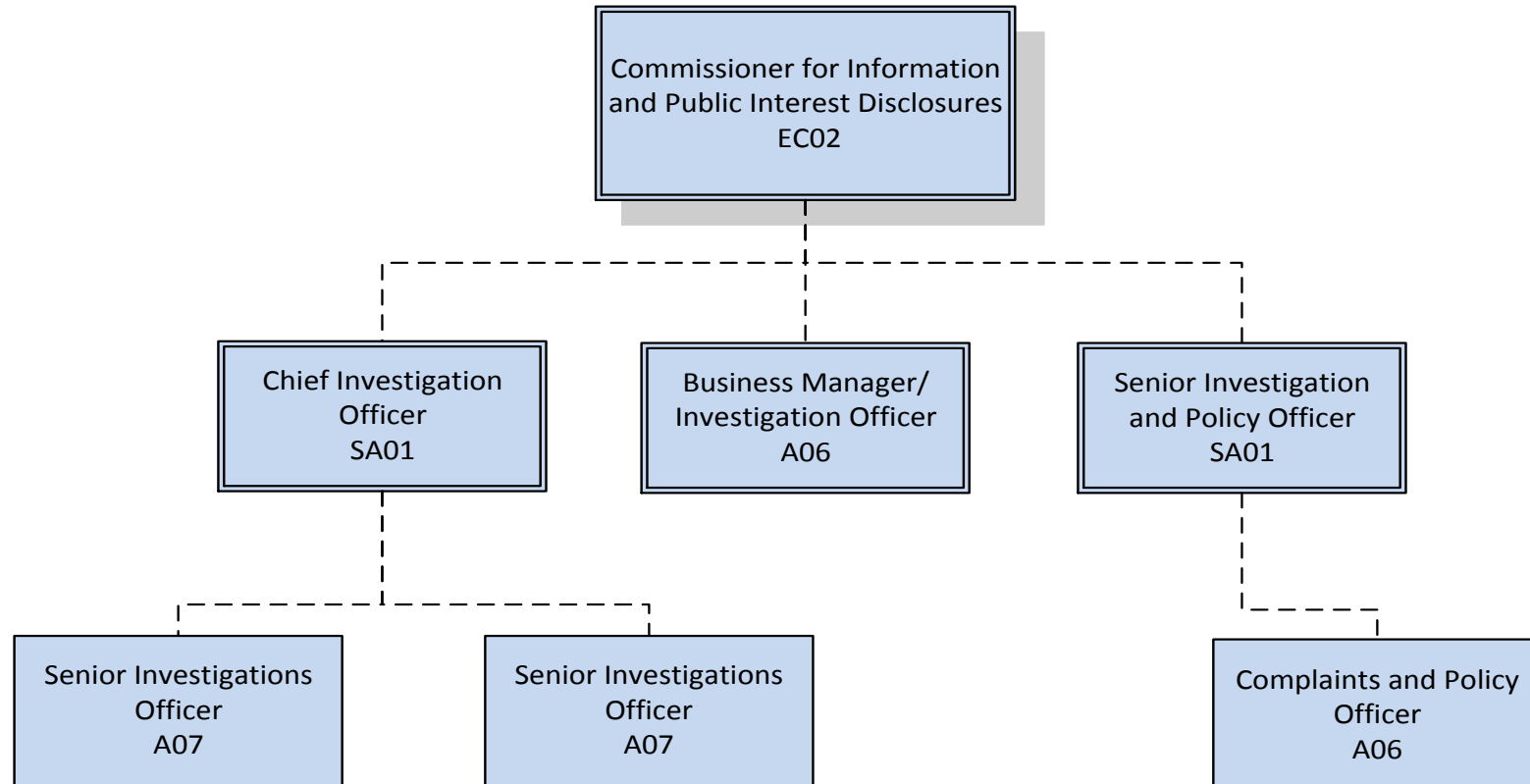
## Notes

A minor change to the methodology for allocating output appropriation indirect cost and corporate overheads' was amended in 2015/16.

The result for 2014/15 has been restated for comparative purposes.

Consultant fees includes IT consultants fees

## Organisational Chart as at 30 June 2016



## Appendix 2 – Performance Measures published in BP3

This section outlines the department's actual performance against the planned outcomes published in Budget Paper No. 3 for 2015-16. It includes the performance measures used to demonstrate efficiency, effectiveness and timeliness in achieving the outcomes.

In 2014-15 the department consolidated and significantly reduced the number of performance indicators reported in Budget Paper No. 3. Those indicators that appear in Budget Paper No. 3 for 2015-16 have been back cast for 2014-15 and are shaded in blue in the following tables.

Key deliverables	Current Year		Targets	Previous Years	
	2015-16 Estimate	2015-16 Actual	2016-17 Estimate	2014-15 Actual	2013-14 Actual
Complaints (includes carried over)	26	54	26	50	36
- FOI	20	43	20	37	30
- Privacy	6	11	6	13	6
Complaints finalised <sup>1</sup>	19	24	19	23	15
- FOI	15	20	15	15	11
- Privacy	4	4	4	8	4
Awareness and training					
- Presentations	20	27	20	19	18
- Participants	250	446	250	289	245
Training- participant satisfaction	80%	78%	80%	81%	76%
FOI and privacy hours (advice and audits) <sup>2</sup>	650	708	650	463	386
Public interest disclosures	60	67	60	50	65
Awareness and training:					
- Presentations	10	10	10	14	7
- participants	400	260	400	260	219
Participant satisfaction	90%	96%	90%	96%	100%
Disclosures resolved or investigation reports presented to responsible authority within 6 months <sup>3</sup>	70%	76%	70%	56%	50%
Community education and awareness sessions delivered <sup>4</sup>	106	114 (37)	106	163 (38)	NA

<sup>1</sup> Summarised measure previously report as separate key performance indicators.

<sup>2</sup> Combined measure for Independent Offices. This key deliverable was incorrectly measured in hours in BP3 2014-15. The 2015-16 estimate should therefore have been 106 sessions. The discrepancy between the estimated and actual figures is due to the consolidation of the measure which was previously recorded differently by each Independent Office. The Office of the Information and Public Interest Disclosures Commissioner delivered 37 sessions in 2015-16.

## Appendix 3 – Statistics by Public Sector Organisations

Thirty-seven out of some 60 public sector organisations received FOI applications during 2014-15. We much appreciate their co-operation and assistance in the timely and accurate reporting of the relevant information the Commissioner requires for this report.

### 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)
DLGCS	Local Government & Community Services (Dept of)
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)
DSR	Sport and Recreation (Dept of)
DTF	Treasury and Finance (Dept of)
DWC	Darwin Waterfront Corporation
KTC	Katherine Town Council
LC	Litchfield Council
MDRC	MacDonnell Regional Council
NTEC	NT Electoral Commission
NTLAC	NT Legal Aid Commission
NTPFES	NT Police, Fire and Emergency Services
OCC	Office of the Children's Commissioner
OCPE	Office of the Commissioner for Public Employment
PWCNT	Parks and Wildlife Commission of the NT
TGEN	Territory Generation
TIO	Territory Insurance Office
TNT	Tourism NT
TRB	Teacher Registration Board of the Northern Territory

**TABLE 1 – Information access applications and their outcome 2015-16**

PSO	Lodged 15-16	Pending 14-15	Handled 15-16	Information released			Withdraw 15-16	Transfer 15-16	Finalise 15-16	Pending 15-16	Total Handled	Exemption used	Other reason	Personal info	Mixed info	Govt only	Media lobby etc
				All	Part	None											
AGDJ	7	3	10	1	3	4	1		9	1	10	3		3	1	6	3
ASTC	1		1	1					1		1					1	
CDU	5	1	6	1	5				6		6	5		1	5		
CoD	7		7		6				6	1	7	6				7	
CoP	1		1		1				1		1		1			1	
DAM	6	1	7	4	1				5	2	7	1		2	2	3	
DCF	31	6	37	6	17	9	1		33	4	37	18	7	29	3	5	2
DCIS	8		8	7		1			8		8	1		6		2	1
DCM	38	10	48		18		21	2	41	7	48	18		1		40	40
DCS	101	4	105	6	22	67		4	99	6	105	3		73	1	22	3
DLA	2		2			1		1	2		2		1			2	2
DLGCS	3		3	1			1		2	1	3					3	2
DLPE	12	2	14	2	6	3	1	1	13	1	14	8	4			14	10
DLRM	4		4	2	1	1			4		4		1			4	2
DME	12	5	17	1	6	3	5		15	2	17	6	2			17	9
DoB	23	1	24	2	16	1	1	4	24		24	17			4	16	4
DoE	22	7	29	5	10	5	4		24	5	29	10	5	17	2	10	10
DoHe	168	7	175	123	12	14	12	4	165	10	175	11	14	138	6	31	8
DoHo	186	1	187	18	153	6	9	1	187		187	153	6	166	4	17	
DOI	3		3	1		1	1		3		3	1		1		2	1
DOT	4	1	5	2		1	1		4	1	5		1	1		4	2
DPIF	12		12	5	2	3			10	2	12	3	2	6	1	5	1
DSR	1		1				1		1		1					1	
DTF	7		7			5	1	1	7		7		5	1		4	
DWC	1		1			1			1		1		1			1	1
KTC	3		3	1	2				3		3	2				3	2
LC	2	1	3	2		1			3		3	1		1		2	
MDRC	1		1							1	1				1		
NTEC	3		3	1	2				3		3	2				3	3
NTLAC	2		2		2				2		2	2	2		2		

PSO	Lodged 15-16	Pending 14-15	Handled 15-16	Information released			Withdraw 15-16	Transfer 15-16	Finalise 15-16	Pending 15-16	Total Handled	Exemption used	Other reason	Personal info	Mixed info	Govt only	Media lobby etc
				All	Part	None											
NTPFES	96	11	107	21	42	28	6	1	98	9	107	47	9	30	26	51	6
OCC	1		1		1				1		1	1		1			
OCPE	1	1	2	1		1			2		2		1	2			
PWCNT	1	1	2				1	1	2		2			1		1	
TGEN	1		1			1			1		1		1			1	1
TIO	2	1	3	1	2				3		3	2		3			
TNT	1		1				1		1		1					1	
TRB	1		1					1	1		1						
<b>TOTAL</b>	<b>780</b>	<b>64</b>	<b>844</b>	<b>215</b>	<b>330</b>	<b>157</b>	<b>68</b>	<b>21</b>	<b>791</b>	<b>53</b>	<b>844</b>	<b>321</b>	<b>63</b>	<b>483</b>	<b>58</b>	<b>280</b>	<b>117</b>

**Note:** PSOs sometimes experience confusion about the number of applications pending completion from the previous year. Mostly this is due to staff changes although this year, only one organisation retrospectively closed an application that was reported as open at the end of the 2014-15 reporting period.

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

PSO	Lodged 15-16	Pending 14-15	Handled 15-16	Corrected as requested	Finalised 15-16	Pending 15-16	Handled 15-16
DoHe	3		3	2	2	1	3
<b>TOTAL</b>	<b>3</b>		<b>3</b>	<b>2</b>	<b>2</b>	<b>1</b>	<b>3</b>

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

PSO	Handled during 15-16				Finalised during 15-16**					Total Finalised 15-16	Pending End 2015-16
	Pending 14-15	Lodged 15-16	S103(2)*	Handled 15-16	Decision confirmed	Decision varied/revoked	More info located	More info released	Withdrawn 15-16		
CoD		1	1	2	1					1	1
CDU		2		2		2		2		2	
DCF		2		2		1	1	1	1	2	
DCIS		1		1	1					1	
DCM		5		5	2	2		2		4	1
DCS		3		3	3					3	
DLPE		2		2	1	1		1		2	
DME		1		1	1					1	
DoB	1	1		2	2					2	
DoE		3		3	3					3	
DoHe		3		3		2		2	1	3	
KTC		1		1	1					1	
NTEC		1		1	1		1			1	
NTLAC	2	1		3	2				1	3	
NTPFES		1		1		1		1		1	
OCPE		1		1	1					1	
<b>TOTALS</b>	<b>3</b>	<b>29</b>	<b>1</b>	<b>33</b>	<b>19</b>	<b>9</b>	<b>2</b>	<b>9</b>	<b>3</b>	<b>31</b>	<b>2</b>

\* s103(2) reviews are an additional option for the OIC since the NTCAT amendments commenced on 1/5/16. The new provisions allow the Commissioner to refer a complaint back to the organisation and require it to conduct a further review of the decision.

# 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(1)(a)	45(1)(b) (c)	46	47	48	49	49AA	49A, B or C	51	52	53	54	55	56	57	58		other	unreasonable interference	search issues
AGDJ								y						y						4A*
CDU										y				y						1R*
CoD												y	y	y						
CoP																		1A		
DAM								y						y						
DCF			y		y	y							y	y	y			4A	2A	3A
DCIS														y						
DCM	y		y			y		y						y	y					
DCS			y								y		y	y				19A	1A	4A
DLA																		1A		1A
DLPE			y											y				3A		2A
DLRM																			1A	
DME						y				y				y	y					3A
DoB	y		y					y		y			y	y	y					1A
DoE						y					y		y	y	y			3A		3A
DoHe										y	y		y	y				7A 1R	1A	4A
DoHo			y			y		y		y			y	y	y			1A		5A
DOI								y												1A
DOT																				1A
DPIF						y							y	y	y			1A	1A	
DTF																				5A
DWC																		1A		
KTC										y	y			y						1A
LC						y		y												
NTEC	y	y	y		y	y	y				y	y	y	y		y				
NTLAC									y	y			y	y				2A 2R		2A 2R
NTPFES	y		y			y			y	y				y	y					8A
OCC								y												
TGEN																		1A		
TIO															y					1A
<b>TOTALS</b>	<b>4</b>	<b>1</b>	<b>8</b>		<b>2</b>	<b>9</b>	<b>1</b>	<b>8</b>	<b>2</b>	<b>8</b>	<b>5</b>	<b>2</b>	<b>10</b>	<b>19</b>	<b>9</b>	<b>1</b>		<b>44A 3R</b>	<b>6A</b>	<b>49A 3R</b>

\* “**A**” indicates that the reason for refusing information occurred at the application stage, while “**R**” indicates it 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	1	30.00
ASTC	1	30.00		
CoD	7	210.00		
CoP	1	30.00		
DAM	2	60.00	2	60.00
DCF	1	30.00		
DCIS	1	30.00		
DCM	31	930.00		
DCS	3	90.00		
DLA	2	60.00		
DLGCS	3	90.00		
DLPE	10	300.00	2	60.00
DLRM	2	60.00		
DME	11	330.00		
DoB	23	690.00	1	30.00
DoE	5	150.00	2	60.00
DoHe	33	990.00	2	60.00
DoHo	9	270.00	4	120.00
DOI	2	60.00		
DOT	4	120.00		
DPIF	5	150.00		
DSR	1	30.00		
DTF	4	120.00		
DWC	1	30.00		
KTC	3	90.00		
LC	2	60.00		
NTLAC	1	30.00		
NTPFES	59	1770.00	1	30.00
TGEN	1	30.00		
TIO	2	60.00		
<b>TOTALS</b>	<b>233</b>	<b>6990.00</b>	<b>15</b>	<b>450.00</b>

TABLE 6 Processing Fees received and reduced or waived

PSO	Number received	Amount received	Number waived	Amount waived
AGDJ	1	230.00		
ASTC				
CoD				
CoP				
DAM	1	75.00	1	75.00
DCF				
DCIS				
DCM	16	3410.00		
DCS	25	370.10		
DLA				
DLGCS				
DLPE	2	299.77	5	2110.60
DLRM	1	450.00	1	150.00
DME	7	3565.01		
DoB				
DoE	1	426.00	3	371.00
DoHe	36	4782.40	14	795.08
DoHo			170	7227.00
DOI	1	62.50	1	62.50
DOT			1	113.00
DPIF	3	478.17		
DSR				
DTF				
DWC				
KTC				
LC				
NTLAC	1	492.02		
NTPFES	2	2157.00	33	5825.00
TGEN				
TIO	1			
	<b>97</b>	<b>16797.97</b>	<b>229</b>	<b>16729.18</b>

TABLE 7 Total fees received and reduced

Total fees received	Total fees waived or reduced
320.00	30.00
30.00	
210.00	
30.00	
135.00	135.00
30.00	
30.00	
4340.00	
460.10	
60.00	
90.00	
599.77	2170.60
510.00	150.00
3895.01	
690.00	30.00
576.00	431.00
5772.40	855.08
270.00	7347.00
122.50	62.50
120.00	113.00
628.17	
30.00	
120.00	
30.00	
90.00	
60.00	
522.02	
3927.00	5855.00
30.00	
60.00	
<b>23787.97</b>	<b>17179.18</b>

## 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.



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