



NSW Ombudsman

A guide for job applicants

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Please read this information

Thank you for your inquiry regarding employment at the NSW Ombudsman's office.

This package contains general information about the Ombudsman's jurisdiction and interview and selection process.

All applications received in response to advertised positions will be reviewed by a selection committee to determine who should be called for interview. The selection committee's assessment will be made solely on how you **demonstrate** that you possess the selection criteria for the position(s). The selection criteria are set out in the advertisement which is also available at www.jobs.nsw.gov.au

Please note: **Do not address the duties listed in the position description.** The position description is made available to give you an outline of the duties and responsibilities of the position and is not the basis on which your application will be assessed. You must attach a statement of claims to demonstrate how you meet each of the selection criteria in addition to your resume.

Please ensure that you submit your application online at www.jobs.nsw.gov.au by the close of business on the advertised closing day. It is your responsibility to ensure that your application is submitted before the deadline. **It is our policy not to accept applications after the closing date.**

The cull and the selection interview will be conducted in accordance with the principles of equal employment opportunity. The selection committee is likely to be a three-person committee and we aim to give all applicants called for interview suitable notice of the time, date and place. Interviews are usually held on Level 24, 580 George Street, Sydney. All short-listed applicants will be the subject of a criminal records check and some positions require a working with children check. The offer of employment to the highest ranked candidate may be delayed until these and other vetting procedures are finalised.


Short-listed applicants must also complete declarations disclosing full details concerning the following:

- real or potential conflict of interests
- prior convictions or arrests
- dismissals from previous employment
- real or potential medical conditions which may interfere with their ability to perform the inherent job requirements and job demands.

Your employment application must include the following documents and must be submitted on line at www.jobs.nsw.gov.au.

- 1) NSW Ombudsman Employment Application and Referee Nomination Form (available on line)
- 2) A statement of Claim addressing each of the selection criteria, and
- 3) Your resume

If you have any specific questions on the duties of the position you should telephone the nominated contact officer whose name and number is included in the advertisement. General inquiries about the recruitment process or employment conditions can be directed to Personnel on (02) 9286 1000.



Anita Whittaker
Director Corporate

Equal Employment Opportunity and the merit principle

Recruitment activity in the New South Wales public sector is guided by the principles of Equal Employment Opportunity (EEO) and of selection on the basis of merit.

EEO is a policy which ensures that, people with equal probability of success have equal probability of being appointed or promoted to a vacancy. EEO affords people the right to be considered for a job for which they are skilled and qualified. Selection on the basis of merit is fundamental to this policy. The purpose of merit selection is to ensure that:

- all eligible members of the community have a fair chance to gain a job with the Government
- selection is based only on a person's ability to perform the work
- the best person is selected, resulting in a quality Public Sector workforce capable of effectively designing and delivering services and programs to the people of NSW.

For the purpose of determining the applicant with the greatest merit for appointment to a vacant position, the following factors are considered:

- the nature of the duties of the position, and
- the abilities, qualifications, experience, standard of work performance and capabilities that are relevant to the performance of those duties.

Your application

If you are applying for more than one job you must submit a separate employment application form, resume and a statement of claims for each position as well as a separate covering letter.

The advertisement

The advertisement sets out 'selection criteria' which informs you of the knowledge, skills, abilities and experience required to perform the duties of the vacant position. The advertisement will list, under the heading of 'selection criteria', those educational and/or work experience skills and qualifications which must be possessed to effectively undertake the duties and responsibilities of the position.

Advertisements also have a brief description of the job, the name of the inquiries person and a closing date for applications.

Read the advertisement and make note of anything you don't understand so you can ask questions. Keep a copy of the advertisement for future use.

Get the information package

Links to an information pack are provided in each of the advertised positions on www.jobs.nsw.gov.au

Other information

Get as much extra information as you can to write a good application.

If possible, search the internet or talk to people who work in similar areas.

Contact the inquiries person provided in the advertisement. They are available to answer any questions you may have and to provide you with further information about the position.

Preparing an application

The content of your written application is crucial in the selection process because it is the basis on which the selection committee's decision to interview is made. A good application shows why you are the best person for the job and how your skills, knowledge and experience match the 'selection criteria'. In order for your skills and experience to be given every consideration by the selection committee, you should ensure that your application contains the following components:

- a brief covering letter (optional)
- your 'statement of claim for the position' demonstrating how you meet each of the selection criteria
- your resume
- a completed employment application and reference nomination form.

Your claim for the position – the most important part of your application

You must include a 'statement of claim for the position' as part of your application/s. If not, you are unlikely to get an interview.

You write a statement of claim for the position to show the selection committee that you have the right mix of skills, knowledge and experience and show how they could be used in the job. You need to write a specific claim for each job that you apply for.

Make a separate heading for each selection criterion. For each one, describe your skills, knowledge and experience and show how they could be used in the job. Emphasise your major achievements. Use positive language, for example: 'In my current role I take responsibility for ...' is better than 'I have limited experience in ...'

Some keywords in selection criteria

Demonstrated knowledge: you need to give examples that prove you have this area of knowledge.

Ability to: you do not need to have done this type of work before, but you need to describe how your skills, knowledge and experience show that you are capable of doing this part of the job.

Experience in: you have to show you have done this type of work before.

Effective, Proven, Highly developed, Superior: you need to show your level of skill. Use examples of your achievements to show your level of skills, knowledge and experience.

Good communication skills: this is not about whether you speak English with an accent. This is about showing you have the communication skills needed to do the job. You could include: experience in dealing with people, details of things you have written, and examples of problems you have solved using your communication skills.

Your resume

Prepare a resume (that is, curriculum vitae) which is clear, concise, up to date and includes:

- personal details
- education and training (do not include your **original** education transcripts or awards only provide a certified copy that can be retained by this office.
- employment history (name of organisation, period of employment, job title, major duties and responsibilities, main achievements)
- skills/experience gained outside of paid work.

The employment application and referee nominations

A link to the employment application and referee nomination form is included in the advertisement and it can also be obtained from the NSW Ombudsman's website at www.ombo.nsw.gov.au. This form acts as a cover sheet for your application and provides the committee with your personal details and the position you are applying for in a standardised format.

The form is also where you provide the names and contact details of two work referees who must be able to comment on your recent work performance. Your first referee should be your direct supervisor in the position you currently hold or in the most recent position held by you.

If you have concerns about providing your current supervisor as a referee you can explore those concerns with the selection committee on the day of the interview.

The vetting consent form

The office will undertake a vetting process for all shortlisted applicants. To assist in this process, it is necessary for applicants to provide certain personal details. The form acts as your consent to the vetting process to be undertaken which includes a criminal records check.

If you are successful in obtaining an interview you will be emailed the vetting consent form to print, complete and return on the day of the interview. You should note the vetting consent form is required to be signed by a witness who is solicitor or JP.

A written task

From time to time applicants are asked to submit a task with their application. The task enables the selection committee to assess your skills against some or all of the other 'selection criteria' e.g. knowledge of the relevant legislation, analytical skills etc. When required in the advertisement the task is an essential component of your application. Failing to complete the task will result in your application being culled by the selection committee.

Submitting your application

Your application must be submitted at www.jobs.gov.nsw.au by the closing date specified in advertisement. **It is our policy not to accept late applications.**

Interview and selection

Selection is usually done by a committee of three people. As a minimum standard, the committee will consist of:

- a representative from the NSW Ombudsman who is familiar with the requirements of the position
- subject to the grading of the position, either a representative from the NSW Ombudsman who does not hold a position in the branch in which the vacant position exists and/or an independent representative from outside the NSW Ombudsman who is familiar with the general skills required for the position and can enhance the impartial selection process
- at least one male and one female member.

Wherever practical or desirable given the nature of the position the committee would also include a person of a non-English speaking background, an Aboriginal person or a person with experience of a disability.

Selection involves:

Shortlisting

The purpose of the selection committee is to assess the relative merits of each applicant and to recommend to the Ombudsman or delegate the applicant with the greatest merit. The selection committee assesses each applicant against the selection criteria outlined in the advertisement and culls those who, on the basis of their application, do not demonstrate that they meet the criteria. If further shortlisting is needed, a second cull can exclude applicants whose qualifications and experience are not as competitive to those of other applicants.

Applicants who best meet the selection criteria will be called for further assessment, usually an interview.

Notification of interview

If you are selected for interview you will be contacted by personnel staff and notified of:

- the venue, date and time
- the names of the selection committee members
- any additional materials required by the selection committee, for example, samples of work, evidence of qualifications etc
- instruction on completing the vetting consent form which you will be required to return at the interview.

Notification of the above details is normally by telephone during business hours, however, personnel staff will ensure that the nature of the call is not indicated to your employer or colleagues.

Please take this opportunity to make us aware of any special requirements you may have such as wheelchair access or the provision of translation services etc.

If you incur out of pocket expenses in getting to and from your interview, you may be entitled to reimbursement of costs. If you intend to seek reimbursement of costs, please contact the Personnel section before incurring any expenses to determine your eligibility for reimbursement.

Interview preparation

If you are chosen for an interview, you should prepare carefully.

Interview questions are based on the selection criteria. Read the criteria and think of likely questions. Practice your answers out loud or with a friend. Interviews are like public speaking —

prepare and rehearse as much as you can. You can also prepare for the interview by familiarising yourself with the information in the position description.

Consider the challenges of the job and how your skills, knowledge and experience will help you meet them. Read your application and decide which points you want to emphasise.

At the interview

The selection committee may use a number of methods to assess your ability to do the job, including work samples or tasks. If you have not been told what to expect, you can telephone and ask if there will be a task or exercise as well as the interview.

To ensure a fair and consistent approach, each applicant will be required to complete the same task or exercise where applicable and be asked the same set of predetermined questions based on job related criteria.

Our usual practice is to have a written and verbal component to the interview. The written component allows the applicant to demonstrate skills/knowledge asked for in the advertisement (for example technical knowledge, written communication skills or analytical skills).

During the verbal interview the committee will be making brief notes about your answers to assist them to make a final recommendation.

When answering the interview questions remember:

- it is OK to take your time — think before you answer
- you can request that the committee repeat or rephrase the question.
- you will usually need to elaborate on the details which are in your application
- give examples from your experience with each answer
- illustrate your responses with examples of your achievements
- give complete answers — don't assume that you can omit details
- interviewers may be more comfortable if you maintain eye contact.

If you are able to provide a great deal of information in response to a particular question but are unsure of the level of detail required, it is useful to summarise the main points then ask the committee if they would like you to expand on any or all of the issues.

At the end of the interview you can:

- restate your major strengths
- present any additional information which you feel will strengthen your case
- give reasons for your interest in the position
- refer to an earlier question at the end of the interview if you remember some additional information that you would like to include.

Referees

Your referees will be contacted if you are shortlisted for the job.

After the interview

A criminal records check will be conducted on applicants short-listed by the committee. Please note that criminal record checks may take up to 2 weeks (sometimes longer) to complete. A Working with Children Check will also be conducted on identified positions.

Successful applicants must also complete declarations disclosing full details concerning the following:

- real or potential conflict of interests
- prior convictions or arrests
- dismissals from previous employment
- real or potential medical conditions which may interfere with their ability to perform the inherent job requirements and job demands

Details supplied in these declarations are stored separately from other personnel records under strict security. Disclosure of any matter does not mean you will be automatically disqualified from employment at the NSW Ombudsman — it depends on the circumstances of the issue/s disclosed and their relevance to us and/or the job you have applied for.

When the Ombudsman or delegate has approved the decision and vetting process are finished, the recommended applicant will be offered the position by telephone and the offer will be confirmed in writing.

There are occasions when the successful applicant may be offered the position subject to the outcome of satisfactory completion of all vetting processes.

If your application is unsuccessful you will be notified in writing that you were unsuccessful.

If you were unsuccessful, it is important to realise that your lack of success may not reflect your ability but is due to another applicant being better qualified at that time. Unsuccessful applicants can request a post selection discussion with the convenor of the selection committee. The discussion is aimed at providing positive assistance through constructive comments about your application and interview performance. The points raised in the discussion can help you to improve your applications in the future and may highlight some training and development needs.

The office does not provide written reasons for non selection.

Public servants may, in certain circumstances, have a right of appeal to the Government and Related Employees Appeal Tribunal (GREAT) against a selection decision. If you feel that an appeal would be appropriate, you should contact your personnel section or GREAT who can provide you with advice on when and how to appeal.

The Ombudsman or delegate may approve a selection committee's recommendation to create an eligibility list to enable subsequent similar vacancies to be filled. Eligibility lists are current for 12 months. However the Ombudsman or delegate is not obliged to use an eligibility list to fill a vacancy if they decide it is more appropriate to conduct a fresh round of recruitment before the eligibility list expires.

People with disabilities

If you are chosen for an interview, you will be contacted by phone. This is the time to advise us if you need anything to assist you at the interview, eg:

- wheelchair access into or around the building
- an Auslan interpreter
- to bring a guide dog.

You do not have to disclose your disability during the application process. However, you could discuss your disability at the interview if you felt it would help your application. For example, you may explain why your disability will not affect your ability to do the job or, you may want to briefly discuss how the job could be adjusted to allow for your disability.

Examples are:

- equipment which will allow you to perform the job with greater efficiency
- exchanging some tasks of the job for tasks of another position
- altering the physical layout of the work area.

These matters cannot be finalised at the interview. The information must be disclosed when you complete a Health Declaration and they will be negotiated in detail with you if you are the successful applicant.

Working for the Ombudsman

Conditions of employment

The NSW Ombudsman, as a public sector employer, offers excellent conditions of employment including:

- flexible work practices, eg part-time work, job sharing, career breaks
- flexible working hours
- equal employment opportunities
- promotional prospects based on merit selection
- career development opportunities
- competitive pay
- four weeks annual leave and leave loading
- fifteen days paid sick leave
- fourteen weeks paid maternity leave
- six weeks long service leave after seven years service a total of two months long service leave after ten years service
- family and community service leave.

Policies

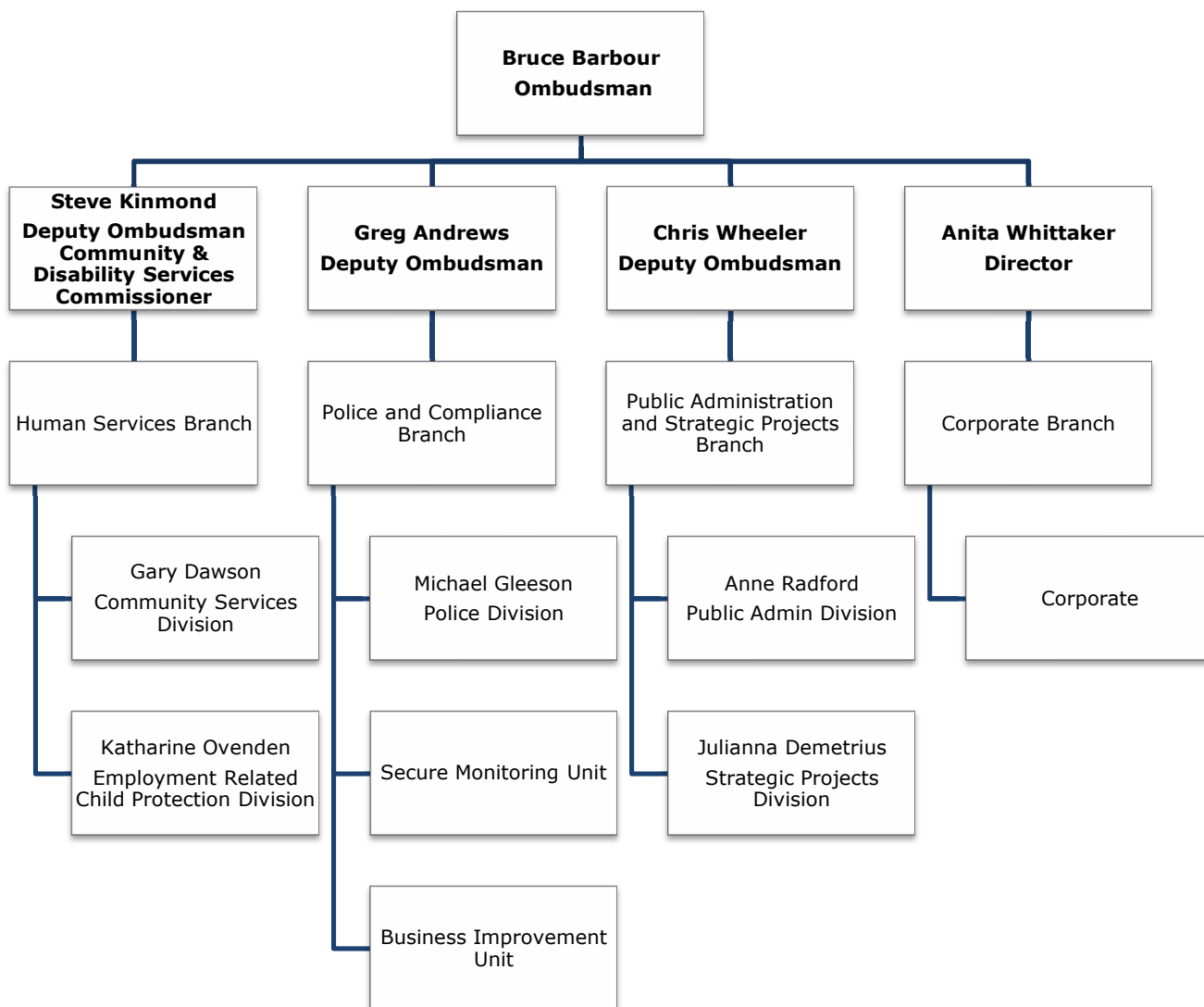
The following policies are provided to short listed applicants prior to commencing employment with the NSW Ombudsman:

Code of Conduct — sets out the minimum standards of behaviour applicable to all public servants. The code also includes specific needs of this office, acknowledging our unique role and our responsibility to maintain public confidence and trust in the institution of the Ombudsman. An undertaking that you have read and understood the Code of Conduct must be completed.

Acceptable use of Communication and Information Technology Devices policy — the purpose of this policy is to set out the responsibilities of staff when using communication devices, and to provide guidance on the status of emails as official records of our business activities. The policy ensures the effective, efficient, economical and ethical use and management of available resources and constitutes the NSW Ombudsman's notice of workplace surveillance in accordance with the *Workplace Surveillance Act 2002*. An undertaking that you have read and understood the Use of Communication Devices Policy must be completed.

Conflict of Interests — this policy sets out the office's position on how real or perceived conflict of interests should be dealt with by members of staff and management. This assists the office to avoid any situation that may compromise our ability to fulfil our functions objectively, impartially and in the public interest.

Organisation chart



NSW Ombudsman

Vision

We want to see fair, accountable and responsive administration practice and service delivery in New South Wales.

Mission

We work to promote good conduct, fair decision making, protection of rights and provision of quality services.

Goals

We aim to:

- Help organisations meet their obligations and responsibilities and promote and assist the improvement of their service delivery.
- Deal effectively and fairly with complaints and work with organisations to improve their complaint handling systems.
- Be a leading watchdog agency.
- Be an effective organisation.

Functions

Our key functions are derived from a number of Acts, which require us to act in the public interest by:

- resolving and investigating complaints
- assessing notifications, monitoring investigations and reviewing the handling of complaints
- keeping complaint handling systems under scrutiny
- inspecting records of organisations to ensure compliance with legislation and good practice
- dealing with inquiries or referring people to appropriate agencies
- reviewing the delivery of community services
- reviewing the implementation of new legislation
- reporting on findings and recommendations.

See section '*The Ombudsman's functions*' for an expanded overview of these functions.

Role

The primary role of the Ombudsman is to be an **independent review** body (the common thread that runs through each of the functions of the Office). This role includes:

- administrative review*
- compliance review**
- legislative review***

Notes:

* Administrative review includes handling complaints about the administrative conduct of public sector agencies and officials, and equivalent bodies and persons.

** Compliance review includes:

- reviewing compliance with the law and good practice (eg compliance with procedural fairness and good practice in investigations, use of police powers, controlled operations, auditing of telecommunication interception records)

- reviewing the handling of and response to allegations/complaints (eg about police, child protection, and community services)
- reviewing standards of service provision (eg provision of community services, secret shopper audits).

*** Legislative review involves reviewing implementation of certain legislation that expands the powers of police and certain officers.

We employ about 200 people. Staff have a wide range of experience and expertise to assist with their handling of more than 35,000 complaints and enquiries we receive each year. Most staff spend at least one day each year in our busy telephone inquiries section.

Jurisdiction and functions of the Ombudsman

Ombudsman Act

The Ombudsman was established under the *Ombudsman Act 1974*, which was assented to on October 1974. The Ombudsman commenced operations on 12 May 1975.

During the reading speech on the Ombudsman Bill, the Minister for Justice, Mr Maddison, outlined that the purpose of an Ombudsman was to satisfy:

'... a need for an independent official who will approach in a consistent way, having regard to justice and the merits of each individual case, complaints made to him on administrative decisions.'

As explained in his speech, the Ombudsman was intended to function in the following three ways:

- as an inexpensive and independent person to examine the basis of a decision
- as an independent official to examine the exercise of discretions by public officials and
- to make decisions about matters increasingly delegated out of the Minister's hands and into the control of public servants.

It was envisaged that:

'... the Ombudsman would receive the complaints of members of the public about the conduct of public authorities, investigate the conduct of and, if he came to the conclusion that the conduct was wrong, recommended that correction be made.'

The Ombudsman's functions

Over the years the Ombudsman's jurisdiction has been greatly expanded into a range of different areas including:

- dealing with complaints about the local government
- overseeing investigation of complaints about police
- dealing with complaints about the provision of community services by public and private bodies
- overseeing the handling of reportable child abuse allegations and convictions by persons and bodies within jurisdiction (for example public bodies, public and private schools, child care centres, etc)
- auditing controlled operation records
- auditing telecommunications interception records
- witness protection appeals
- conducting reviews of legislation conferring powers on police and certain others, and so on.

The Ombudsman's role

The common thread that runs through each of the Ombudsman's functions is the **independent review** role. This role involves:

- administrative review, including handling complaints about the administrative conduct of public sector agencies and officials, and equivalent bodies and persons
- compliance review, including:
 - reviewing compliance with the law and good practice) eg compliance with procedural fairness and good practice in investigations, use of police powers, controlled operations, auditing of telecommunication interception records)
 - reviewing the handling of and response to allegations/complaints (eg about police, child abuse, and community services)

- reviewing standards of service provision (eg provision of community service, secret shopper audits) and
- legislative review involving the implementation of certain legislation that expands the powers of police and Community Services NSW staff.

Ombudsman's powers

Power to investigate

Subject to certain limitations contained in the various Acts which give the Ombudsman jurisdiction, the Ombudsman can investigate complaints against, or oversight the investigation of complaints by, a number of public and private bodies and their employees.

Various powers are also available to the Ombudsman to make conduct the subject of an 'own motion' investigation, whether or not any person has complained to him (eg s.13(1), *Ombudsman Act*, s.24(2)(b), *Community Services (Complaints, Reviews and Monitoring) Act*, s.156, *Police Act*).

Discretion to decline or discontinue

The Ombudsman has a wide discretion either to decline a complaint or discontinue an investigation on the basis that:

- the complaint is frivolous, vexatious or not in good faith
- the conduct complained of is trivial
- the conduct relates to the discharge of a function which is substantially a trading or commercial one
- the conduct complained of occurred at too remote a time to justify investigation
- there is or was an alternative and satisfactory means of redress
- the complainant has no or insufficient interest in the conduct complained of such matters as the Ombudsman thinks fit (s.13(4), *Ombudsman Act*)
- there is no substance to the complaint.

Where the Ombudsman refuses to investigate a complaint, or discontinues an investigation, he must inform the complainant in writing of the decision and the reasons for it (s.15(1), *Ombudsman Act*).

Excluded conduct

Schedule 1 to the *Ombudsman Act* specifies the conduct of public authorities which is excluded from the Ombudsman's jurisdiction under that Act. For example the conduct of Ministers, the Legislature (in any aspect) and Judiciary generally, is outside the Ombudsman's jurisdiction.

Powers

The Ombudsman may require a person or body within jurisdiction to:

- give a statement of information
- produce any document or other thing
- give a copy of any document (s.18, *Ombudsman Act*).

The Ombudsman may enter and inspect any premises occupied or used by a person or body within jurisdiction to carry out a function that is within jurisdiction (s.20, *Ombudsman Act*, ss.17&18, *Community Services (Complaints, Reviews and Monitoring) Act*).

The Ombudsman also has coercive and Royal Commission powers under the Act, the most far-reaching of which is a s.19 inquiry. Section 19(2) of the *Ombudsman Act* imports various provisions of the *Royal Commissions Act* into the *Ombudsman Act* for the purposes of any inquiry under s.19(1), which is simply one method of conducting an investigation. The Royal Commission power is the most extensive of the Ombudsman's powers and enables him to summons any person to attend and give evidence during an inquiry. Witnesses summonsed are, subject to the protections set out in s.21 of the *Ombudsman Act*, required to answer all questions.

The Ombudsman may apply to the Supreme Court for an injunction restraining any conduct in which a public authority is engaging or in which a public authority appears likely to engage, where that conduct is the subject of, or affects the subject of, an investigation or proposed investigation by the Ombudsman (s.21A, *Ombudsman Act*).

The Ombudsman is also able to engage the services of any person for the purpose of obtaining expert assistance in an investigation (s.23, *Ombudsman Act*).

Adverse findings

The Ombudsman is required to give an opportunity to make submissions on the conduct the subject of investigation, if practicable, to the person or body whose conduct is being investigated, as well as to any other person given a notice under s.16 (s.24(1), *Ombudsman Act*). Where in an investigation the Ombudsman considers that there are grounds for adverse comment in respect of any person, the Ombudsman is required if practicable, to inform the person of the substance of the grounds of adverse comment and give him or her an opportunity to make submissions (s.24(2), *Ombudsman Act*).

The Ombudsman is required to make a report where he finds that the conduct the subject of investigation is any one or more of the kinds specified in s.26(1). The Ombudsman is able to make wide ranging recommendations, including the amendment of any law and the payment of compensation (s.26(2)).

Each complaint we receive is made into a 'file'. Investigation officers are often required to manage a large number of files requiring different types of actions.

NSW police

Complaints about Police

Most complaints about police are dealt with under the *Police Act 1990*. The legislation recognises that NSW Police, like any other government authority, has principal responsibility for investigating and/or resolving complaints about its personnel and its systems. In doing so, NSW Police is required to:

- carry out investigations into complaints in a manner that is both effective and timely
- keep complainants informed of the progress of its inquiries, then advise them of the outcome
- seek complainants' views on whether they are satisfied with the way in which their concerns have been addressed.

The *Police Act* employs a broad definition of 'conduct' that may become the subject of an actionable complaint that includes (but is not limited to) any action or inaction of a police officer that may involve the commission of a criminal or disciplinary offence, that is unreasonable, unjust, oppressive or improperly discriminatory, that is based on improper motives or irrelevant grounds, or is based on a mistake of law or fact. An actionable complaint may also be about a matter or police administration or a matter that concerns the internal management of NSW Police.

The Ombudsman and the Police Integrity Commission (PIC) have significant responsibilities in the police complaints system. The Ombudsman's primary function in this area is to provide independent civilian oversight of NSW Police's handling of complaints about police officers and NSW Police generally. In doing so, the Ombudsman's principal focus is to ensure the integrity of NSW Police's handling of complaints. For this purpose the Ombudsman can request NSW Police remedy deficient investigations, reconsider inadequate management decisions and make other suggestions to improve their handling of matters. If the Ombudsman is dissatisfied with the NSW Police response, he can report on the matter if he considers it in the public interest to do so.

We can also monitor NSW Police investigations through Ombudsman staff observing interviews conducted by police during NSW Police investigations, and conduct its own direct investigation into complaints about police where it is in the public interest to do so. Direct investigations may

also be concerned with the NSW Police investigation of a complaint and/or any other issues related to the complaint.

The PIC's powers and responsibilities are set out in the *Police Integrity Commission Act*. The PIC is a specialist agency whose principal role is seeking out, investigating and reporting on police corruption and particularly serious or systemic forms of police misconduct. Its other responsibilities include monitoring and auditing NSW Police investigations. The PIC's specialist investigative role means that, in practice, it tends to focus its resources on a relatively small number of complaints and other matters of serious police malpractice.

Both NSW Police and the Ombudsman must notify the PIC of certain types of complaints, notably allegations of criminal or other serious misconduct. The PIC is entitled to investigate these or any other complaints. Complaints not investigated by the PIC are generally dealt with by NSW Police under the oversight of the Ombudsman.

Projects, Auditing and Intelligence

As part of our work to 'keep under scrutiny' police systems for handling complaints, Police Division staff are actively engaged in project and auditing work in a broad range of areas. This work is principally carried out by the Research, Project and Auditing team (RPA). However ideas for projects will often come from the particulars of an individual complaint or a group of complaints that indicate some kind of trend. This means that staff principally involved in complaint handling are often the source of many project ideas.

Some of the key areas of our project and auditing work are:

- complaint performance measures such as complaint turnarounds, complainant satisfaction, investigation deficiency rates and conciliations
- key complaint handling issues such as timeliness, trends in relation to management actions and intelligence in relation to officers and local area commands of concern
- general policing issues such as the effectiveness of NSW Police's auditing of improper access to the COPS database, issues surrounding domestic violence and the effectiveness of relationships between police and Aboriginal communities and young people.

We work with specific groups, such as Aboriginal communities and young people, to improve their relationships with the police. Since 2002, we have been visiting local police commands with substantial Aboriginal populations to examine police efforts to prepare for and implement their Aboriginal Strategic Direction - the NSW Police plan to improve outcomes for Aboriginal communities.

Intelligence

One of the key strategies identified by the Police Division is to develop our capacity to gather meaningful intelligence on police problem officers, issues and complaint management i.e. determining how well NSW Police is not only dealing with complaints and issues at Command, Region and State Level, but also how it is managing its officers.

This intelligence-based approach may be used to help focus our resources on areas with a high level of complaint mismanagement problem officers or Commands and other significant local, regional or state wide problems in policing practice and policy.

Using the information and intelligence derived from the complaint process, region visits and other operational activities we can become more effective in maximising our impact.

Notifications and complaints about child protection

The Ombudsman was given a new role in child protection in 1998 as a result of the recommendations contained in the report of the Royal Commission into the Police Service and community concern about the protection of children in agencies. The Royal Commission also looked at paedophilia in NSW, and in the final report commented on the widespread failure of employers in both government and non government agencies to properly investigate and deal with child abuse allegations against employees.

Under Part 3A of the *Ombudsman Act 1974*, we are required to scrutinise the systems for preventing and responding to reportable conduct in government and certain non-government agencies. To give effect to the legislation, we established a child protection division in 1999. The team oversees and monitors agencies' investigations of reportable allegations and also conducts direct investigations when it is in the public interest to do so.

The agencies we mainly oversee are those that provide services to children such as schools, childcare centres, out of home care service providers and juvenile justice centres. The heads of these agencies are required to notify us within 30 days of becoming aware of any reportable allegation or conviction against employees, investigate these matters and report back to us at the conclusion of the investigation. Our role is to ensure these allegations are properly investigated and appropriate action is taken as a result of the investigation.

We also have a complaints handling role and deal with complaints mainly from employees and parents about the way an investigation has been handled.

As part of our scrutinising function we audit agencies. This involves an assessment of agency policies, an on site visit to examine systems in place and a report to the agency with recommendations about areas for improvement.

There is an ongoing need for us to provide information and training to the 7,000 agencies in our jurisdiction. We address this need through presentations and workshops, by participating in conferences and by producing relevant educational materials.

Community Services

The Community Services Division was established following the merger of the Community Services Commission and the NSW Ombudsman in December 2002. Operating both under the *Ombudsman Act* and the *Community Services (Complaints, Reviews and Monitoring) Act* we carry out a broad range of functions in relation to both government and non government provision of community and disability services in NSW.

The arrangements provide a strong foundation for:

- promoting and protecting the rights and best interests of consumers of community services in NSW and
- assisting service providers to meet their obligations under the community welfare legislation.

We are able to handle oral and written complaints, always seeking resolution wherever possible but having the ability to investigate serious matters. Reviews of complaint handling systems within services are also undertaken and recommendations made.

We are able to conduct own motion complaints and investigations and to review the situations of children and young people in care and people with disabilities in residential care.

Another significant function is the review of deaths of certain children and people with disabilities in care, seeking to provide recommendations to reduce preventable or early deaths.

The Community Services Division co-ordinates the Official Community Visitors scheme which visits residential services for people with disabilities and children. Importantly, we monitor, review and help inform the establishment of standards for the delivery of community services, provide community education to service providers and consumers and promote access to advocacy support service for consumers.

The legislation requires that in all of our work the primary criteria for assessing standards of conduct or services are the best interests of consumers and the compliance with the objects, principles and provision of the community welfare legislation. Our work is aimed at resolving issues for individuals, achieving service wide improvements and influencing systemic reform.

We do not act as an advocate for individual consumers but promote improvements in the delivery of community services and the rights and best interests of consumers through recommendations.

Monitoring of telecommunications interceptions

The *Telecommunications (Interception)(New South Wales) Act 1987* empowers the Ombudsman to audit by inspection the records of interception of telephone calls by NSW eligible authorities and to report upon the degree of compliance by those authorities under the Act. The Ombudsman is prohibited from reporting on the exercise of his functions under this Act in his Annual Report or in any report to Parliament under the *Ombudsman Act*. The Ombudsman's functions under the *Telecommunications (Interception)(New South Wales) Act* are also excluded from the jurisdiction of the Joint Parliamentary Committee by Part 4A of the *Ombudsman Act*.

Protected disclosures

The *Protected Disclosures Act 1994* commenced operation on 1 March 1995.

The Act aims to encourage the disclosure of corrupt conduct, maladministration, and serious and substantial waste in the public sector. The Act provides avenues by which public officials (both state and local) can make such disclosures and be protected against reprisals.

The Act provides four avenues for the making of protected disclosures:

- to one of the primary accountability bodies in the state (eg the NSW Ombudsman, ICAC, Auditor General and Police Integrity Commission) referred to in the Act as 'investigatory authorities'
- to the principal officer of a public authority or investigating authority
- to a person (being another public official of a public authority) so nominated in an adopted internal procedure established by the public authority for the reporting of allegations made under the Act or
- to a Member of Parliament or journalist, provided very stringent conditions in the Act are met (as set out in s.19 of the Act).

The NSW Ombudsman provides an advisory service for public officials contemplating making protected disclosures under the Act, and to public authorities seeking guidance in the implementation of the Act or in dealing with a protected disclosure.

Complaints about witness protection

The *Witness Protection Act 1995* commenced operation on 18 April, 1996. The Act aims to protect the safety and welfare of crown witnesses and their families. The Act creates a wholly new responsibility for the Ombudsman to determine appeals made by witnesses and participants in the witness protection program against decisions of the Commissioner of Police. Additionally, the Act creates rights for protected witnesses including the right to complain about the operation of the program.

We have the following responsibilities under the *Witness Protection Act*:

- under s.6 (4) a witness (as defined under the Act) may appeal to the Ombudsman within 3 days after being informed of a decision made to not include that person in the witness protection program, the Ombudsman must determine the appeal within 7 days
- under s.12 a participant may appeal to the Ombudsman within 3 days after being informed of confirmation of a decision to suspend or terminate protection and assistance, the Ombudsman must determine the appeal within 7 days
- under s.8 (3) a participant in the witness protection program may complain to the Ombudsman about the conduct of the Commissioner or member of the NSW Police concerning matters covered by the Memorandum of Understanding (the agreement which sets out the basis for inclusion in the program and details of protection and assistance to be provided)
- additionally, protected witnesses have the right to make complaints to the Ombudsman about any other alleged misconduct of police under the *Police Act*.

Monitoring of controlled operations

In 1995, the High Court of Australia found that evidence obtained during a controlled importation of prohibited drugs organised by the Australian Federal Police was prima facie inadmissible because the actions of the law enforcement officers engaged in the controlled importation were unlawful.

The *Law Enforcement (Controlled Operations) Act 1997*, which came into effect on 1 March 1998, is a response to this decision. It permits certain prescribed law enforcement agencies — NSW Police, Independent Commission Against Corruption, NSW Crime Commission, Police Integrity Commission, National Crime Authority, Australian Federal Police and the Australian Customs Service— to engage in conduct which, but for the Act, would be unlawful ('controlled activities').

These 'controlled activities' can include virtually any action that would otherwise be unlawful, but there is an absolute prohibition on authorising any participant to induce another person to commit an unlawful act or in engaging in conduct that is likely to seriously endanger the health or safety of any person or to result in serious loss or damage to property.

Not surprisingly, this is balanced by a broad system for independent monitoring, and the Act gives to the Ombudsman an oversight role in relation to compliance by the law enforcement agencies with the Act. The role is analogous to, but much broader than, that imposed by the telecommunications interception legislation. The Ombudsman must be notified within 21 days of the granting, variation or renewal of an authority, and is obliged to inspect the records of each law enforcement agency at least once a year 'for the purpose of ascertaining whether or not the requirements of this Act are being complied with' (S22(1)). The Ombudsman must report annually to the Presiding Officers of both Houses of Parliament regarding his inspections and may also at any time make a special report to Parliament. The contents of these reports are restricted by the need to ensure confidentiality concerning law enforcement operations and to protect the personal safety of those involved (s24(1)).

Because the Act essentially renders lawful conduct that would otherwise be unlawful, failure to comply with the Act may not only risk the admissibility of evidence obtained, but may also expose participants to both criminal prosecution and civil liability. In addition, failure to comply with the mandatory Code of Conduct will expose law enforcement operatives to the risk of disciplinary proceedings.

Legislative review

In addition to the complaint and investigation roles of the Ombudsman, the NSW Parliament requires the Ombudsman to review powers conferred under some new legislation. Parliament determines which new powers the Ombudsman will review, and the length of each review.

At the end of each review, the Ombudsman reports on his findings. In conducting reviews, the Ombudsman commonly uses a range of research approaches including observing operations, consulting with stakeholders such as community groups and police, examining court decisions, conducting surveys, reviewing complaints and inspecting records of the use of the new powers.

A number of reports have been finalised and tabled in Parliament and are available on the NSW Ombudsman's website: www.ombo.nsw.gov.au

Multicultural Policies and Services Program (formerly EAPS)

The cultural diversity of the people of NSW reflects the whole population of NSW, which comprises people from a range of cultural, ethnic, linguistic and religious backgrounds.

New South Wales is the most culturally diverse state in Australia. People from around 200 birthplaces have made the State their home; in addition close to a quarter of the population speak a language other than English at home (New South Wales 2006 Census).

It also requires New South Wales government agencies to consider carefully their planning and innovation, particularly when delivering programs and services to meet the needs of such a culturally diverse society.

All New South Wales government agencies are guided by the Principles of Multiculturalism which are enshrined in State law. The Principles confirm the right of individuals in New South Wales to:

- fully contribute and participate in the life of the state;
- respect the culture, language and religion of others (within a legal and constitutional framework where English is the common language);
- have access to government services;
- have the linguistic and cultural assets in New South Wales recognised and promoted.

Leading from the principles, four broad objectives underpin the New South Wales Government's Community Relations Plan of Action 2012. These key objectives are outlined in the White Paper, called *Cultural Harmony: The Next Decade 2002 - 2012*, as follows:

- leadership to encourage and value a culturally diverse society through the establishment of supportive policy, legal and planning frameworks;
- community harmony;
- access and equity within the framework of social justice obligations;
- economic and cultural opportunities.

Public sector agencies make these principles and objectives part of their core business through their Multicultural Policies and Services Plan (MPSP).

And the Community Relations Commission For a multicultural NSW assesses and monitors the performance of public sector agencies, and reports on this performance in an annual [Community Relations Report](#).

Additional information is available on the Community Relations Commission website at www.crc.nsw.gov.au

Ethical practice

All jobs have ethical dimensions. People working in the public sector have particular obligations to work ethically and to always act in good faith in the public interest. This is their public duty. For public officials to determine whether their decisions and actions are in the public interest, a set of ethics or principles is required. The Independent Commission Against Corruption has developed the followed principles of public duty.

Serving public above private interests (selflessness)

Making decisions on courses of action on the basis that the chosen course best serves the public interest, no regard should be given to any other, that is private or personal, interest in taking such decisions.

Integrity

Ensuring that any decision taken, or choice of action made, maximises to the greatest practicable extent, the following qualities:

Openness

- Giving reasons for decisions
- Revealing all avenues available to the client or business
- When authorised, offering all relevant information
- Communicating clearly.

Honesty

- Obeying the law
- Following the letter and spirit of policies and procedures
- Observing codes of conduct
- Fully disclosing actual or potential conflict of interests.

Accountability

- Recording reasons for decisions
- Submitting to scrutiny
- Keeping proper accessible records
- Establishing audit trails.

Objectivity

- Fairness to all
- Impartial assessment
- Merit selection in recruitment and in purchase and sale of government resources (procurement and disposal)
- Considering only relevant matters.

Courage

- Giving advice fearlessly and frankly where required
- Doing the right thing even in the face of adversity
- Reporting and dealing with suspected wrongdoing
- Acting in the public interest above loyalty to colleagues or supervisors.

Leadership

Demonstrating, by your own ethical behaviour, the value of these principles in serving the public interest. Promoting public duty to colleagues and others in an agency and outside.

Equal Employment Opportunity (EEO)

Equal Employment Opportunity (EEO) is about:

- making sure that workplaces are free from all forms of unlawful discrimination and harassment, and
- providing programs to assist members of EEO groups.

EEO groups are people affected by past or continuing disadvantage or discrimination in employment. These groups are:

- women
- Aboriginal people and Torres Strait Islanders
- members of racial, ethnic, and ethno-religious minority groups, and
- people with disabilities.

Discrimination is treating someone unfairly or harassing them because they belong to a particular group. Under the *Anti-Discrimination Act 1977*, it is against the law in NSW for any employer, including the Government, to discriminate against an employee or job applicant because of their: age sex pregnancy disability (includes past, present or possible future disability) race, colour, ethnic or ethno-religious background, descent or nationality marital status carer's responsibilities homosexuality or transgender.

Both direct and indirect discrimination are against the law. Direct discrimination means treatment that is obviously unfair or unequal. Indirect discrimination means having a requirement that is the same for everyone but has an effect or result that is unfair to particular groups:

Employees have the right to:

- a workplace that is free from unlawful discrimination and harassment,
- equal access to benefits and conditions, and
- fair processes to deal with work-related complaints and grievances.

Employers have the responsibility to:

- act to prevent harassment and discrimination against others in your workplace,
- respect differences among colleagues and customers such as cultural and social diversity, and
- treat people fairly (don't discriminate against or harass them).

Managers and supervisors have the responsibility to:

- take steps to ensure that all work practices and behaviours are fair and free from all forms of unlawful discrimination and harassment
- provide employees with equal opportunity to apply for available jobs, training and development, higher duties and flexible working hours
- ensure selection processes are based on merit, transparent and the methods used are consistent.

Occupational Health and Safety (OHS)

What everyone needs to know

The *NSW Occupational Health and Safety Act 2000* aims to protect the health, safety and welfare of people at work by laying down general requirements which must be met at every place of work in NSW.

The Act covers employees as well as employers and self-employed people.

Employees must:

- take reasonable care of the health and safety of others
- co-operate with employers in their efforts to comply with occupational health and safety requirements.

Employers must:

- act to ensure the health, safety and welfare at work of their employees.

All persons must not:

- interfere with or misuse things provided for the health, safety or welfare of persons at work
- obstruct attempts to give aid or attempts to prevent a serious risk to the health and safety of a person at work
- refuse a reasonable request to assist in giving aid or preventing a risk to health and safety
- disrupt a workplace by creating health and safety fears.

What managers need to know

Employers must act to ensure the health, safety and welfare at work of their employees. They must:

- maintain places of work under their control in a safe condition and provide and maintain safe entrances and exits
- make arrangements for ensuring the safe use, handling, storage and transport of equipment and substances
- provide and maintain systems of work and working environments that are safe and without risks to health
- provide the information, instruction, training and supervision necessary to ensure the health and safety at work of employees
- provide adequate facilities for the welfare of employees
- consult with employees to enable them to contribute to decisions affecting their health, safety and welfare
- adopt a risk management approach to managing workplace health and safety.

Note: This page is intended solely for the use of job applicants. Managers and employees should seek more information once they enter the workplace. Nothing in this page shall be construed to waive or modify any obligations imposed by the *Occupational Health and Safety Act 2000* and *Safety Regulation 2001*.

Contact us for more information

Level 24 580 George Street
Sydney NSW 2000

If you wish to visit us, we prefer you make an appointment. Please call us first so we can ensure your complaint is within our jurisdiction and our staff are available to see you.

Our business hours are:
Monday to Friday, 9am–5pm
(Inquiries section closes at 4pm)

General inquires: 02 9286 1000

Toll free (outside Sydney metro): 1800 451 524

Tel. typewriter (TTY): 02 9264 8050

Facsimile: 02 9283 2911

Email: nswombo@ombo.nsw.gov.au

Web: www.ombo.nsw.gov.au

Telephone Interpreter Service (TIS): 131 450

We can arrange an interpreter through TIS or you can contact TIS yourself before speaking to us.