

INQUIRY INTO
THE ADEQUACY OF
THE FUNDS AND
RESOURCES
AVAILABLE TO
THE OMBUDSMAN

*COMPANION
VOLUME*



Parliament
of New South Wales

Report of the
Joint Committee
on the Office
of the Ombudsman

SEPTEMBER 1993

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Document A

The Independence and Accountability of the Ombudsman,
Report to Parliament under Section 31 of the Ombudsman Act,
19 July 1990

SPECIAL REPORT TO PARLIAMENT
PURSUANT TO SECTION 31 OF THE OMBUDSMAN ACT

THE INDEPENDENCE AND ACCOUNTABILITY
OF THE OMBUDSMAN

REPORT TO THE HONOURABLE N F GREINER,
PREMIER OF NEW SOUTH WALES

PRESENTED BY: DAVID LANDA
OMBUDSMAN FOR NEW SOUTH WALES

DATE: 19 JUL 1990

SPECIAL REPORT TO PARLIAMENT

PURSUANT TO SECTION 31 OF THE OMBUDSMAN ACT

1. Introduction

1.1 The purpose of this report is to place before the Parliament for its consideration, proposals to make the Office of the Ombudsman fully accountable to the legislature and to ensure its independence from the executive.

1.2 On 24 May 1990, the Premier, the Hon N F Greiner, wrote to the Ombudsman about the Ombudsman's practice of issuing statements of provisional findings and recommendations (referred to by the Premier as 'draft reports'), to complainants and to public authorities the subject of investigation. The Premier provided the Ombudsman with an opinion by the Solicitor General advising that the practice was unlawful and he sought the Ombudsman's confirmation that the practice would be discontinued.

In his letter the Premier also stated:

I am concerned that at the present time the Ombudsman's operations are not monitored externally. I appreciate that accountability should not be allowed to impede the independence of the office and clearly it would not be appropriate for the Ombudsman to be made accountable to the Executive. However, I am inclined towards the view that it may be appropriate to establish a Parliamentary Committee of the kind which currently operates in relation to the ICAC and the NCA to monitor the operations of the Ombudsman. Of course, such a committee would not be involved in reviewing specific cases, but rather would look at general operational and policy matters.

1.3 On the same day, the Ombudsman wrote to the Premier, and informed him that the long standing practice of issuing statements of provisional findings and recommendations had been adopted following legal advice, that the Solicitor General's opinion had been referred to senior counsel for advice, and that, pending that advice, he declined to discontinue the practice of this Office.

The legality of the Ombudsman's practice in issuing statements of

provisional findings and recommendations to complainants and to public authorities the subject of investigation is a question which will now be considered by the Supreme Court in proceedings which were commenced on 12 June 1990 by the Commissioner of Police and others. These proceedings relate to an investigation by the Deputy Ombudsman and Assistant Ombudsman of a complaint which was referred to in the Ombudsman's Special Report to Parliament of 18 August 1989.¹ Accordingly, this report will not traverse the issue of the legality of the Ombudsman's practice.

1.4 In the course of a Ministerial statement in the Legislative Assembly on 24 May 1990, the Premier said:

When the Independent Commission Against Corruption was established, accountability was raised as a major issue by members of this Parliament on both sides and by some Independent members. The Independent Commission Against Corruption is accountable to a parliamentary committee and errors of law made by the Commission are reviewable by the courts. Other independent bodies, such as the National Crime Authority, are similarly accountable to parliamentary committees and to the ordinary courts of law. The reality with respect to the Ombudsman is that whenever any Premier receives a complaint about the Ombudsman - which certainly does happen from time to time - all that the Premier can do is write back to the person and say that the Ombudsman is not accountable to him and that the person will have to take the matter up with the Ombudsman. The procedure of the Ombudsman dealing with complaints against himself is obviously entirely unsatisfactory.

It would be clearly undesirable if the Ombudsman were accountable to me as Premier or to the Executive Government. After all, the Ombudsman's role is to deal with complaints about the action of the Executive Government, other than those of Ministers of the Crown. I therefore believe that the Parliament needs to consider the question of whether or not a parliamentary committee, similar to that which operates in relation to the ICAC, should be set up to review the operations of the Ombudsman. The Ombudsman would be accountable to Parliament through such a committee. The Committee would be charged with the responsibility of examining the general conduct, procedures and operations of the Ombudsman, but not with specific cases.²

¹ Request for urgent amendment of Ombudsman Act to enable the Ombudsman to delegate to the Deputy Ombudsman or to an Assistant Ombudsman a function conferred by section 19(2) of the Ombudsman Act.

² Hansard 24 May 1990, P.4549-50.

1.5 In his letter of 24 May 1990 to the Premier, the Ombudsman said:

I have noted your comments concerning the accountability of the Office of the Ombudsman and have also considered the remarks you made in the House today. I agree that it would be anomalous indeed for the Office of the Ombudsman to be accountable to the Executive. The Ombudsman has repeatedly made that point clear in Annual Reports and I have made specific recommendations to government to strengthen the independence of the Office of the Ombudsman.

In this context, I welcome your proposal to establish a Committee of the Parliament to oversight the general operations of the Office of the Ombudsman as a means of ensuring the continued accountability of this Office to the legislature.

The Ombudsman expressed the belief, in line with his past recommendations, that such a Committee should also have responsibility for recommending to Parliament:

- the appointment of the Ombudsman and Deputy Ombudsman;
- the level of appropriation of funds from Consolidated Revenue for the Office of the Ombudsman.

In addition, and to ensure the complete independence of his Office, the Ombudsman also recommended the amendment of Ss.27, 30 and 31 of the Ombudsman Act and S.32 of the Police Regulation (Allegations of Misconduct) Act, to enable the Ombudsman to provide reports to Parliament directly to the Speaker of the Legislative Assembly and the President of the Legislative Council.

1.6 The concept of the Ombudsman's independence from the executive is no mere issue of academic principle; rather, such independence is a practical necessity for an organisation whose task is to investigate citizens' complaints about maladministration by public authorities. Ministers are ultimately responsible for public authorities and governments have a tendency to view even constructive criticism of authorities under their control as criticism of their political administration. This is particularly so in Australia with its history of secrecy in public administration which has only recently begun to crumble with the adoption of Ombudsman and Freedom of Information legislation.

Nevertheless, governments dislike and react against public discussion and debate of issues of public administration, such as often occurs where the Ombudsman decides to report to Parliament.

The uneasy relationship between an Ombudsman and the executive is well illustrated by the remarks made by the former Saskatchewan Ombudsman in 1985, shortly before his retirement:

To some extent, it may be inevitable that an Ombudsman who works up to his mandate will have something other than a smooth working relationship with the executive branch of government. The cumulative effect of appearing to be constantly in search of change and remedies for the public, and finding it necessary to air differences with the government in public several times each year, must put this relationship in some jeopardy. Sooner or later, there is a tendency to shoot the messenger when governments don't like the message. It may be because governments, once they settle in, wish to appear infallible and become less tolerant of differing views. It may also be because the Ombudsman is the recipient of only bad news and runs the risk of developing a jaundiced attitude towards government systems. In any event, there is no greater challenge for an Ombudsman than to attempt to maintain a good working relationship with government.³

1.7 There are, in fact, many anomalous provisions in the legislation governing the Office of the Ombudsman which run counter to the notion of an Ombudsman independent of the executive and which would enable an executive, were it so minded, to attempt to control this Office through indirect means.

1.8 It is the view of the Ombudsman that the Premier's proposals do not go nearly far enough to guarantee the independence of the Ombudsman from the executive and to ensure its accountability to the legislature.

This report sets out detailed proposals to ensure such independence and accountability.

2. The Ombudsman and Parliament

2.1 The principle that the Ombudsman should be accountable to Parliament

³ Report of the Saskatchewan Ombudsman for year ended 31 December 1985.

finds expression in the statement that the Ombudsman is an officer of Parliament. The issue of the relationship of the Ombudsman to Parliament and the need for his independence from the executive, has been described with clarity by the New Zealand Chief Ombudsman, John Robertson, CBE:

If the Ombudsman is seen as an extension of the Parliamentary role of reviewing citizens' grievances and holding the government executive accountable for the equitable impact of its administration on the governed, then the assessment of the degree of independence needed by Ombudsmen to carry out the task, and their relationship with Parliament, comes more into focus.⁴

The notion of the Ombudsman as an extension of Parliament's role of receiving and acting on citizens' complaints is given practical effect by S.12(2) Ombudsman Act and S.6(2) Police Regulation (Allegations of Misconduct) Act which provide that where a person wishes to make a complaint to the Ombudsman, that complaint may, with the consent of that person, be made on his or her behalf by a member of Parliament.

2.2 The former New South Wales Ombudsman, Mr G G Masterman, QC, also succinctly stated the principle:

The question is often rightly posed "Who guards the guardians". No body, however lofty its aims and objectives, should be placed in a position where it is accountable to no-one.

The traditional view worldwide is that the Ombudsman should be accountable direct to Parliament. This is seen in the universal provision that the budget of the Ombudsman should be fixed by Parliament. In some countries, for instance the United Kingdom and a number of Canadian States, their Parliaments have set up a Select Committee with exclusive functions in relation to the Ombudsman. In some places, such as Western Australia, the name adopted - "Parliamentary Commissioner for Administrative Investigations" - reflects the parliamentary link. In some countries, reports to Parliament are delivered direct to the Speaker for tabling not to the Premier or Prime Minister. In some places indeed the appointment of an Ombudsman is made by Parliament, following the deliberations of a Committee of Parliament.⁵

⁴ "The Independence of Ombudsmen and their relationship with Parliament" (p.3) Paper presented to 10th Conference Australasian and Pacific Ombudsmen, September 1989.

⁵ Special Report to Parliament, 10 September 1987, P.2

- 2.3 In New South Wales, however, there is a gap between the principle of the Ombudsman as an officer of Parliament and the reality. This is due to the original decision to develop the Office as part of the Premier's Department, a decision which gave rise to legislative provisions resulting in the Ombudsman not being truly independent of the executive.

3. Reports to Parliament

- 3.1 The right to report to Parliament is recognised as being fundamental to the notion of an Ombudsman as an officer of Parliament and as essential to an Ombudsman's independence.

- 3.2 In New South Wales there are constraints on the Ombudsman's ability to report freely to Parliament, even in relation to his Annual Report. The present and former Ombudsman have consistently recommended to Parliament the removal of these constraints.

- 3.3 S.30 Ombudsman Act, provides:

Annual Report

30. (1) The Ombudsman shall, as soon as practicable after 30th June in each year, prepare and submit to the Minister a report of his work and activities for the twelve months preceding that date.

(2) The Minister shall lay that report or cause it to be laid before both Houses of Parliament as soon as practicable after the receipt by him of the report.

Under S.30 the only obligation on the Premier, as the Minister responsible for the Office of the Ombudsman, is to table the report "as soon as practicable".

- 3.4 S.31 Ombudsman Act provides:

Special report to Parliament

31. (1) The Ombudsman may, at any time, make a special report to the Minister for presentation to Parliament on any matter arising in connection with the discharge of his functions.

(2) The Ombudsman may include in a report under subsection (1) or under section 27 a recommendation that the report be

made public forthwith.

(3) Where a report under subsection (1) or under section 27 contains a recommendation by the Ombudsman that the report be made public forthwith the Minister may make it public before it is presented to Parliament.

In this case, it is entirely a matter for the Premier's discretion as to when a special report is tabled or, should Parliament not be sitting, whether it should be made public. In the past, although not under the current government, the tabling in Parliament of reports under S.31 was sometimes delayed until it was politically or otherwise convenient to the executive government, where reports contained criticisms of "public authorities" for which Ministers had responsibility. In such cases the reports were commonly tabled without any advice or forewarning to the Ombudsman.

3.5 The same constraints apply under S.32 Police Regulation (Allegations of Misconduct) Act which is in almost identical terms to S.31 Ombudsman Act:

Special report to Parliament

32. (1) The Ombudsman may, at any time, make a special report to the Minister for presentation to Parliament on any matter arising in connection with the discharge of his functions under this Act.

(2) The Ombudsman may include in a report under subsection (1) a recommendation that the report be made public forthwith.

(3) Where a report under subsection (1) contains a recommendation referred to in subsection (2), the Minister may make it public before it is presented to Parliament.

3.6 S.27 Ombudsman Act, provides:

Default in consequent action

27. Where the Ombudsman is not satisfied that sufficient steps have been taken in due time in consequence of a report under section 26, he may make a report to the Minister for presentation to Parliament.

Again, the same constraints apply - the timing of the tabling of the report is a matter within the discretion of the Premier. In this case,

however, the Minister responsible for the public authority the subject of a report under S.26, will already have had an opportunity to consult with the Ombudsman on the conduct the subject of the Ombudsman's investigation. This right of consultation is guaranteed by both S.25 Ombudsman Act and S.29 Police Regulation (Allegations of Misconduct) Act. Reports under S.27 are made where a public authority has failed to accept and act on the Ombudsman's recommendations in a report under S.26. Such cases should clearly be for Parliament's attention and consideration, without the need for a report to be submitted through the Premier.

- 3.7 The only argument ever advanced to the Office of the Ombudsman in favour of the constraints on its independence imposed by the above provisions, is the pragmatic one that the executive government might react against being "ambushed" by reports of the Ombudsman, should they be delivered directly to the presiding officers of both Houses of Parliament.

This argument arises from self-interest and appears to be a good reason in itself for removing the impediments on the Ombudsman's right to report to Parliament directly.

- 3.8 Indeed, in the states of Victoria, South Australia and Western Australia, the Ombudsman presents his Annual Report directly to the Speaker of the Legislative Assembly and the President of the Legislative Council. In Queensland, with a unicameral parliament, the Annual Report is presented to the Speaker of the Legislative Assembly.

Similarly, in New Zealand and in the Canadian provinces of Alberta, British Columbia, New Brunswick, Ontario and Saskatchewan, the Ombudsman or his equivalent, sends his Annual Report directly to the appropriate presiding officer(s).

- 3.9 The present restrictions on the Ombudsman's independence from the executive affect not only the Ombudsman but the Parliament as well. The issue is not solely the accountability of the Ombudsman, but the accountability of the executive to Parliament. The arguments in favour of removing the current restrictions on the Ombudsman's right to report directly to Parliament are based on a principle which is fundamental to

the relationship of the executive and the legislature. It is time to remove these constraints.

4. Appointment of the Ombudsman

4.1 Because the Ombudsman is an officer of Parliament, it is appropriate that the Parliament should have the power to appoint and to dismiss the Ombudsman. Both the Ombudsman and his predecessor have consistently recommended this. Yet, in New South Wales, the anomalous position remains that, whilst the Parliament, effectively, has the power of dismissal, only the executive has the power to appoint the Ombudsman.

Ss 6(1) and (5) Ombudsman Act provide, respectively:

Office of Ombudsman

6(1) The Governor may, on the recommendation of the Minister, appoint an Ombudsman on such terms and conditions as are specified in the instrument of his appointment.

.....

(5) The Ombudsman may, at any time, be removed from his office by the Governor upon the address of both Houses of Parliament.

4.2 In New Zealand the Ombudsman is appointed by the Governor-General on the recommendation of the House of Representatives. In Canada, at the national level, two principal Ombudsmen are appointed by Parliament, with a third principal Ombudsman being appointed by the Privy Council. At the provincial level, in five out of nine provinces the Ombudsman is appointed by the Lieutenant-Governor upon the recommendation of the Legislative Assembly.

4.3 With the exception of the Northern Territory, where the appointment of the Ombudsman is on the recommendation of the Legislative Assembly, the position in all other Australian states and in the Commonwealth is the same as it is in New South Wales. It is fair to say that the various Australian jurisdictions have tended to lag behind developments in legislation relating to Ombudsmen in other jurisdictions, particularly in New Zealand and Canada.

4.4 As with other reforms which this report suggests to ensure the independence of the Ombudsman from the executive and his accountability to Parliament, the appointment of the Ombudsman by Parliament is fundamental in terms of principle and practice. The same considerations should apply to the appointment of the Deputy Ombudsman and any Assistant Ombudsman.

4.5 It is the Ombudsman's view that the most appropriate mechanism to achieve this reform would be for a Joint Parliamentary Committee to recommend an appointment for consideration by both Houses of Parliament.

The constitution and powers of the proposed committee are discussed later in this report.

5. Allocation of Funds for the Office of the Ombudsman

5.1 The ultimate control which any executive has over a public official is the power to control his budget. Whilst the Parliament is responsible for passing the annual Appropriation Bills it is the executive which has control over the whole of the process leading up to the presentation of this legislation to the Parliament.

This problem has been referred to by Professor Kenneth Wiltshire, Head of Department of Government, University of Queensland:

. . . provision of resources for the Ombudsman is carried out by the executive with either a limited role or usually no role for the parliament; estimates of the Ombudsman are rarely, if ever, debated by parliament as a whole, or its Estimates Committee.

It is this last aspect which has been one of the main concerns of Ombudsmen in all political systems over the past decade but especially in Australia: the lack of control by an Ombudsman over his own resources. In Canada, the U.K., New Zealand and Australia, the budget for the Ombudsman is typically provided from the executive component, not the parliamentary component, it comes out of Consolidated Revenue. The estimates must pass through a Minister, they can be queried by central finance agencies, and they are hardly ever debated in parliament.⁶

⁶ "The Ombudsman and the Legislature". Paper presented to the Fourth International Ombudsman Conference, Canberra 1988.

5.2 Some jurisdictions, particularly New Zealand, have now addressed the problem posed for the independence of an Ombudsman by the executive's control of the public purse strings. In New Zealand the Ombudsman is an "Officer of Parliament", a position recognised explicitly by statute. Following recommendations of the Finance and Expenditure Committee of the House of Representatives and the enactment of a new Public Finance Act 1989, the following procedure applies:

- the Annual Budget of the Ombudsmen is presented to the Officers of Parliament Select Committee of the House of Representatives, which is Chaired by the Speaker, for approval;
- the Committee discusses the budget with the Ombudsmen;
- the Committee reports its conclusions to the House;
- the House commends to the Governor-General by way of an address the required Vote Estimate and requests that it be included in an Appropriation Bill.

Such a process embodies the essence of accountability and independence and frees the Ombudsman from the threat of financial control by executive government.

5.3 In New South Wales, apart from minuscule income from fees on applications under the Freedom of Information Act, the budget for the Office of the Ombudsman is wholly dependent on appropriations from Consolidated Revenue.

5.4 Although Treasury officials have been of assistance to the Ombudsman in recent years, particularly relating to establishment costs of the relocation of the Office, and the implementation of a new computer system utilising existing budget funds, the funding of new functions under both the Telecommunications (Interception)(New South Wales) Act and the Freedom of Information Act has presented difficulties for this Office. In each instance, the decision to approve increased staff numbers and funding of the new functions, was on a temporary twelve month basis only, and was considerably delayed. This led to uncertainty, given that the Ombudsman's functions under the Telecommunications (Interception)

(New South Wales) Act and his expanding function of external review under the Freedom of Information Act were quite unlikely to be changed, and presented some obvious recruitment difficulties.

5.5 The Ombudsman is fully aware of the difficult position in regard to State finances and has always been prepared to accept the need for and to exercise financial restraint. The cumulative effect, however, of repeated productivity and other savings required of this Office is beginning to be felt in the resources available to conduct investigations.

In a new trend which will also have an impact on the financial resources of this Office, the Ombudsman has recently received three separate requests from different Ministers of the Crown to investigate specific complaints of alleged maladministration within departments under their control. An investigation commenced in one of these matters is estimated to cost at least \$65,000. The Ombudsman has had to write to the Premier and Treasurer to seek supplementation of funds to enable the investigation to be conducted.

Similarly, specific supplementation will have to be sought from the Premier and Treasurer to cover the cost of the legal proceedings referred to earlier in this report. It could hardly be said that the outcome of those proceedings would be a matter of disinterest to the executive.

Treasury officials have also recently advised the Ombudsman that there would be no budget supplementation, other than the usual and limited escalation factor, to meet the cost of a rent review due in March 1991. Bearing in mind that the proposed 1991 rent review was well known to Treasury when the relocation of this Office was approved, this is a matter of serious concern to the Ombudsman, as the impact of the rent review in a full financial year will certainly affect the financial resources which can be devoted to investigations.

5.6 Accordingly, in the interests of ensuring the financial independence of this Office, the Ombudsman recommends that the appropriation of funds for the budget of his Office be a matter for recommendation by a Joint Parliamentary Committee to the Parliament and that Parliament by resolution establish the appropriation to be introduced by the Treasurer without alteration.

6. Other Legal and Administrative Restrictions

- 6.1 One way in which executive government may seek to control an Ombudsman whom it perceives as recalcitrant or too independent, is by controlling the terms and conditions of, and the appointment of, his staff. Such restrictions may be more easily invoked in the context of existing legislation governing public instrumentalities generally, for example the Public Sector Management Act. They could just as effectively undermine the independence of the Ombudsman as outright amendment of the Ombudsman Act, a course which could be dangerous to the executive responsible for introducing such legislation into the Parliament.
- 6.2 In his 1983 Annual Report the former Ombudsman drew attention to the fact that, almost 10 years after its establishment, the Office of the Ombudsman was, under the Public Service Act, still subject to the administrative control of the Secretary of the Premier's Department who, of course, was a "public authority" subject to the jurisdiction of the Ombudsman. The practical effect of such administrative control was that the Ombudsman was not entitled to deal directly with the then Public Service Board on important staffing and industrial issues. This anomaly was not rectified until 1984 when the Office of the Ombudsman was declared to be a separate administrative unit with the Ombudsman having the powers of a permanent head under the Public Service Act.
- 6.3 In 1990, however, there are still significant statutory and administrative impediments to the independence of the Office of the Ombudsman from the executive. Some of these impediments were recognised by the current Premier on 8 March 1988, when he said:

It is absurd to expect the Ombudsman to operate independently of Government, when his Office falls within the scope of the Public Service Act. A body like the Ombudsman which is charged with investigating the public service bureaucracy must be independent of the Public Service or it is forever in danger of being reduced to nothing more than a toothless tiger.⁷

On 31 March 1988, the Premier wrote to the Ombudsman outlining a

⁷ News Release, 8 March 1988.

number of proposed reforms which would have increased the Ombudsman's independence.

6.4 In November 1988, the Premier introduced the Ombudsman (Amendment) Bill and the Police Regulation (Allegations of Misconduct) (Ombudsman) Amendment bill. In his second reading speech the Premier said:

The main purpose of these Bills is to fulfil the Government's pre-election undertaking to enhance the powers of the Ombudsman and make him a more effective guardian of the public interest.

Schedule 2 of the Ombudsman (Amendment) Bill as amended by the government in the Committee stage in the Legislative Council:

- constituted the Office of the Ombudsman as a corporation;
- provided that the corporation could employ such staff as necessary to enable the Ombudsman to carry out his functions;
- enabled the corporation, with the concurrence of the Public Employment Industrial Relations Authority, to fix the salaries, wages, allowances and conditions of employment of staff in so far as they were not fixed by or under another Act or law;
- provided that officers of the Ombudsman were not to be subject to the Public Sector Management Act; and
- provided that no appeal would lie to the Government and Related Employees Appeal Tribunal in relation to promotional or disciplinary matters.

The Bill included protections for existing staff of the Ombudsman.

6.5 Read in conjunction with existing provisions of the Ombudsman Act, these reforms would have placed the Office of the Ombudsman on a similar footing to the Independent Commission Against Corruption so far as its independence was concerned, in matters relating to staffing and conditions of employment.

S.104 Independent Commission Against Corruption Act 1988, provides:

Staff etc. of Commission

104. (1) The Commission may employ a Director of Operations,

a Director of Administration and such other staff as may be necessary to enable the Commission to exercise its functions.

(2) The Director of Operations and Director of Administration shall be appointed for terms not exceeding 5 years, but are eligible for re-appointment.

(3) The Commission may, with the concurrence of the Minister, fix the salaries, wages, allowances and conditions of employment of any such staff in so far as they are not fixed by or under another Act or law.

(4) The Commission may-

(a) with the approval of the Minister responsible for the department, office or authority concerned; and

(b) on such terms and conditions as may be approved by the Minister administering this provision,

arrange for the use (by secondment or otherwise) of the services of any staff or facilities of a government department, administrative office or public authority.

(5) The Commission may-

(a) with the approval of the Minister for Police after that Minister has consulted the Commissioner of Police; and

(b) on such terms and conditions as may be approved by the Minister administering this provision,

arrange for one or more members of the Police Force to be made available (by way of secondment or otherwise) to perform services for the Commission.

(6) The Commission may engage any suitably qualified person to provide the Commission with services, information or advice.

(7) Members of the staff of the Commission are under the control and direction of the Commissioner in their capacity as such members.

(8) The Commission may make arrangements for or in connection with the discipline of members of the staff of the Commission whose services are made use of under subsection (4), or who perform services for the Commission under subsection (5), to be carried out in accordance with procedures applicable to their principal employment.

(9) For the purposes of this Act, a person who is employed under subsection (1), or whose services are made use of under subsection (4), or who performs services for the Commission under subsection (5), is a member of the staff of the Commission.

(10) The Public Service Act 1979 does not apply to the appointment of staff of the Commission and a member of the staff is not, as a member, subject to that Act (except in so far as arrangements may be made for that purpose under subsection (8)).

(11) Schedule 3 has effect with respect to the rights of certain staff of the Commission.

6.6 Whilst the Ombudsman would have remained subject to a number of constraints, the Bill represented a significant step in guaranteeing the independence of the Office. As Parliament will recall, the government withdrew the legislation in the face of foreshadowed amendments which it found unacceptable. Although some non-controversial amendments contained in the Bill were subsequently enacted by virtue of Statute Law (Miscellaneous Provisions) Acts, the provisions most fundamental to the independence of the Office of the Ombudsman have never been enacted.

6.7 The Ombudsman, of course, is concerned that the rights of existing staff of his Office receive protection. Amendments introduced by the government during the Committee stage of the Bill in the Legislative Council would have provided for a transition period of three years and would have preserved superannuation and other entitlements. A major stumbling block to the passage of the Bill, however, arose following a foreshadowed amendment restoring the right of appeal to the Government and Related Employees Appeal Tribunal. Following the announced intention to introduce this amendment, the government withdrew the legislation.

The Ombudsman has given considerable thought to this matter and believes that the retention of the right of appeal to GREAT is consistent with both the proper protection of the rights of existing staff, and the concepts of the Ombudsman's accountability and independence from the executive government. Accordingly, the Ombudsman supports the retention of such a right of appeal.

6.8 The Ombudsman will continue to be bound, and properly so, by legislation guaranteeing equal opportunity of employment (EEO). In addition, the Ombudsman believes that his Office should adhere to such merit based selection procedures as are presently established by certain provisions of the Public Sector Management Act.

6.9 At present, the approved staff number for the Office of the Ombudsman is determined by the Treasury; previously it was determined by the Premier's Department.

On 22 March 1989, the Treasury approved the establishment, on a temporary basis, of four staff positions to deal with the Ombudsman's functions under the Freedom of Information Act, as well as additional funds for those positions in 1989-90.

On 14 May 1990, in response to a request from the Secretary of the Treasury, the Ombudsman provided a lengthy submission with detailed reasons for the retention of these positions on a permanent basis, particularly in light of the expanding role of external review by the Ombudsman under the Freedom of Information Act.

On 27 June 1990, the Secretary of the Treasury wrote to the Ombudsman as follows:

I wish to advise that approval has been given to your Office retaining the additional staff number of four positions and the funding on a temporary basis pending a managerial review of your organisation by the Office of Public Management as directed by the Premier and Treasurer.

The Office of Public Management exercises many of the functions of the former Public Service Board and is the principal instrument, through the Director-General of the Premier's Department, for advising the Premier on "structures, programs and strategies for achieving a more efficient and effective administration".⁸

6.10 The Ombudsman is deeply concerned at such a direction. It runs counter to all the previous public pronouncements by the Premier and should be contrasted with the comments in his letter to the Ombudsman of 24 May 1990 and in his Ministerial statement to Parliament on the same day.

The issue is not whether the Ombudsman should be accountable for the

⁸ Pamphlet "Better Public Management", Office of Public Management.

proper and efficient management of staff and financial resources allocated to his Office. The issue is whether he should be accountable directly to the Premier or any agency of the executive, such as the Office of Public Management, (itself a public authority subject to the jurisdiction of the Ombudsman), rather than being accountable for his administration directly to Parliament.

- 6.11 The Premier's recent direction for a management review to be conducted by the OPM contrasts strangely with that Office's past action concerning Programme Performance Review - Five Year Plans and Reports.

The Office of the Ombudsman, having regard to its unique position, had previously been exempted from this requirement. On 10 April 1989, the Deputy Director-General of the Premier's Department and General Manager of the Office of Public Management, apparently unaware of the exemption, wrote to the Ombudsman advising that OPM had not received a five year review plan. The Ombudsman replied, informing the Deputy Director-General:

The former Ombudsman wrote to the then Premier on 2 March 1987, seeking an exemption from the Five Year Programme Performance Review. On 17 March 1987, the former Premier advised this Office that he had waived the requirement for the Ombudsman to prepare a Five Year Plan for Programme Performance Review. Accordingly, this Office has not prepared any reports concerning this matter.

The Ombudsman not only reports to Parliament on an annual basis, but also whenever significant matters concerning his administration arise. In my view, the right of the Ombudsman to report to Parliament at any time, enables the Parliament and the public to make an objective assessment of the performance of the Office of the Ombudsman. In addition, the Ombudsman (Amendment) Bill presently before the Parliament provides for the incorporation of this Office as a means of guaranteeing the independence of the Ombudsman. Having regard to these matters, I would expect that this Office would continue to be exempted from the requirements of Programme Performance Review.

On 27 April 1989, the Deputy Director-General advised:

As you correctly point out, the exemptions given for the Programme Performance Reviews were granted by the previous Government. The matter has not been confirmed or pursued by the present Government.

I propose to have a look at the requests for the exemption and establish what position the current administration proposes to take. As soon as that has been established, I will get in touch with you again.

Nothing further had been heard from OPM in the intervening fourteen months until the Treasury Secretary's announcement on 27 June of the Premier's direction for OPM to conduct a management review of this Office.

6.12 There are other legislative restrictions presently in the Ombudsman Act which should be repealed, because they represent a fetter on the proper independence of the Ombudsman.

S.9 Ombudsman Act, provides:

Special Officer

9. The Ombudsman may, with the concurrence of the Minister, appoint an officer of the Ombudsman to be a special officer of the Ombudsman.

All staff employed in the Office of the Ombudsman are "officers of the Ombudsman" by virtue of S.32(3) Ombudsman Act. However, under S.10(1) Ombudsman Act, the Ombudsman may only delegate his investigative functions to a "special officer". To enable the most efficient and appropriate handling of complaints, the long established practice of the Office of the Ombudsman is for investigative staff to exercise such functions under delegation but within well-defined guidelines. Accordingly, on each occasion when a new investigator is appointed, the Ombudsman must seek the Premier's approval for that person's appointment as a "special officer". Quite apart from the delay and administrative inconvenience which it entails, the provision is in conflict with the concept of the independence that the Ombudsman should have and it should be amended.

6.13 Similarly, S.10A Ombudsman Act, provides:

Delegation to other Ombudsmen

10A. (1) The Ombudsman may, with the approval of the Minister, delegate the exercise of any functions of the

Ombudsman under sections 18, 19(1), 20 and 23 to a person who is empowered to exercise under a law of another State, the Commonwealth or a Territory of the Commonwealth functions similar to the functions exercised by the Ombudsman under this Act, where-

- (a) the Ombudsman is of the opinion that an investigation authorised to be carried out by the Ombudsman under this Act may more effectively or more appropriately be carried out by the person to whom it is proposed the delegation be made; and
- (b) the delegation is for the purpose of enabling that person to carry out that investigation.

Although, as far as the present Ombudsman is aware, no occasion has arisen for the exercise of such delegation, the restriction in this provision is anomalous and should also be amended.

6.14 Finally, S.23 Ombudsman Act, provides:

Expert Assistance

23. In an investigation under this Act, the Ombudsman may, with the consent of the Minister, engage the services of any person for the purpose of getting expert assistance.

The services of experts engaged by the Ombudsman under the provision are paid for from the budget of the Office of the Ombudsman, not from the budget of the Premier's Department. Accordingly, this provision should also be amended because it is contrary to the concept of the Ombudsman's independence.

7. Joint Parliamentary Committee

7.1 The Premier's proposal for the establishment of a parliamentary committee to oversight the operations of the Office of the Ombudsman is not unique: several such committees exist in other Ombudsman jurisdictions, for example, six of the fourteen Ombudsmen in Canada have a committee of the legislature to oversee their operations.

Support for the establishment of a parliamentary committee to oversight the operations of an Ombudsman also comes from the Commonwealth Ombudsman, Mr Dennis Pearce, who has said:

The desirability of there being a formal connection between the Ombudsman and the Parliament has been discussed in many previous annual reports. In some jurisdictions there is a parliamentary committee that is concerned solely with the operation of the Ombudsman. It has been suggested by my predecessors that such a committee should be established in the Commonwealth Parliament. While I would welcome such a development, I do not think it is likely to occur, having regard to the number of committees that already exist in the Parliament and to the fact that they tend to have a general rather than a specific jurisdiction.⁹

In the Ombudsman's view, however, the Premier's proposal is a rather limited one, modelled as it is on existing joint parliamentary committees which are responsible, respectively, for overseeing the National Crime Authority and the Independent Commission Against Corruption. The Ombudsman believes that such a model should serve only as a starting point and he proposes a much more fundamental reform, in line with developments in New Zealand, the first Westminster-style country to adopt the Scandinavian concept of the Ombudsman.

7.2 The Parliamentary Joint Committee on the National Crime Authority is constituted under Part III, National Crime Authority 1984, (C'th) (SS 52-55). In particular, S.55 provides:

Duties of the Committee

55. (1) The duties of the Committee are:
- (a) to monitor and to review the performance by the Authority of its functions;
 - (b) to report to both Houses of Parliament, with such comments as it thinks fit, upon any matter appertaining to the Authority or connected with the performance of its functions to which, in the opinion of the Committee, the attention of the Parliament should be directed;
 - (c) to examine each annual report of the Authority and report to the Parliament on any matter appearing in, or arising out of, any such annual report;
 - (d) to examine trends and changes in criminal activities, practices and methods and report to both Houses of the

⁹ Commonwealth Ombudsman Annual Report, 1987-88, P.25.

Parliament any change which the Committee thinks desirable to the functions, structure, powers and procedures of the Authority; and

- (e) to inquire into any question in connection with its duties which is referred to it by either House of the Parliament, and to report to that House upon that question.
- (2) Nothing in this Part authorises the Committee:
 - (a) to investigate a matter relating to a relevant criminal activity; or
 - (b) to reconsider the findings of the Authority in relation to a particular investigation.

The first report of the Joint Parliamentary Committee in November 1985 is instructive for the tension which it revealed between the Committee and the Authority, specifically in relation to the proper interpretation of S.55(2) which prohibits the Committee from investigating a matter relating to a relevant criminal activity or from reconsidering the findings of the Authority in relation to a particular investigation. A legal opinion obtained by the Committee suggested that, S.55(2) notwithstanding, the Committee had the power to seek information from the Authority concerning a decision whether or not to investigate particular matters as well as the reasons for these decisions, the progress of investigations and the likely outcome of these investigations. The Authority, armed with a contrary legal opinion, argued for a narrower interpretation of S.55(2) and relied as well on the secrecy provisions of S.51 National Crime Authority Act.

A recommendation by the Committee to amend the National Crime Authority Act to clarify or confirm its powers was not acted upon, and its second report in November 1986 shows some resolution of the previous difficulties between the Committee and the Authority, a trend continued in the Committee's 1987 and 1988 reports.

7.3

Part 7 of the Independent Commission Against Corruption Act relates to the Joint Parliamentary Committee to oversight the ICAC and provides for the constitution of the Committee (S.63), its functions (S.64), membership (S.65), vacancies (S.66), Chairman and Vice-Chairman (S.67), procedure (S.68), evidence (S.69) and confidentiality (S.70).

In particular, S.64 provides:

Functions

64 (1) The functions of the Joint Committee are as follows:

- (a) to monitor and to review the exercise by the Commission of its functions;
- (b) to report to both Houses of Parliament, with such comments as it thinks fit, on any matter appertaining to the Commission or connected with the exercise of its functions to which, in the opinion of the Joint Committee, the attention of Parliament should be directed;
- (c) to examine each annual and other report of the Commission and report to both Houses of Parliament on any matter appearing in, or arising out of, any such report;
- (d) to examine trends and changes in corrupt conduct, and practices and methods relating to corrupt conduct, and report to both Houses of Parliament any change which the Joint Committee thinks desirable to the functions, structure and procedures of the Commission;
- (e) to inquire into any question in connection with its functions which is referred to it by both Houses of Parliament, and report to both Houses on that question.

(2) Nothing in this Part authorises the Joint Committee-

- (a) to investigate a matter relating to particular conduct; or
- (b) to reconsider a decision to investigate, not to investigate or to discontinue investigation of a particular complaint; or
- (c) to reconsider the findings, recommendations, determinations or other decision of the Commission in relation to a particular investigation or complaint.

Ss.64(2) is more tightly drafted than S.55(2) National Crime Authority Act and is clearly intended to prevent the committee from intruding into the operational functions of the Commission.

It is the Ombudsman's view that such a provision is appropriate and a provision in similar terms would be essential to ensure the integrity of his investigations. As the New Zealand Chief Ombudsman has remarked, in the absence of such a protection:

Many Ombudsmen. resign from a Select Committee for this purpose on the grounds that there may be a predisposition to second-guess the Ombudsman's conclusions.¹⁰

The Premier's remarks in his letter to the Ombudsman and in his Ministerial statement on 24 May 1990 explicitly accept the need for such a restriction on the powers of a Committee established to oversight the Ombudsman.

- 7.4 There is a further restriction which should be imposed on the powers of a Joint Parliamentary Committee to oversight the Ombudsman. Under the Telecommunications (Interception)(New South Wales) Act 1987, the Ombudsman is required to inspect the records of "eligible authorities" relating to the interception of telephone calls. The Act is complementary to the Commonwealth Telecommunications (Interception) Amendment Act and the Ombudsman is also empowered to report to the New South Wales Attorney General upon breaches of either Act.

S.19(2) of the New South Wales Act, provides that:

Anything that an inspecting officer has done or omitted to do under this Part shall not be included in a report or special report under Section 30 or 31 of the Ombudsman Act 1974.

In view of this legislative scheme it would be inappropriate for any Joint Parliamentary Committee to inquire into or consider the conduct of the Ombudsman's inspecting officers under the Telecommunications (Interception)(New South Wales) Act 1987.

- 7.5 It is particularly relevant to note the terms of S.55(1)(c) National Crime Authority Act and S.64(1)(c) Independent Commission Against Corruption Act which confer on the respective committees the duty to examine the Annual Reports of the National Crime Authority and the Independent Commission Against Corruption and report to the Parliament on any matter appearing in or arising out of the Annual Report.

At present, there is no formal structure or mechanism available to the

¹⁰ Op. cit p.7

New South Wales Parliament by which it can consider the Ombudsman's Annual Report. The absence of such a structure in many jurisdictions led the New Zealand Chief Ombudsman to remark:

I cannot see how any Ombudsman can expect his report to have an impact on Parliament unless machinery is in place which will process the report.¹¹

- 7.6 Similar considerations apply to special reports by the Ombudsman under S.31 Ombudsman Act and S.32 Police Regulation (Allegations of Misconduct) Act. In addition the present absence of such an oversight mechanism in respect of reports under S.27, when public authorities have not complied with the Ombudsman's recommendations, is disturbing. In Ontario, the Parliamentary Committee overseeing the operations of the Ombudsman is specifically required to consider reports of non-compliance and make recommendations regarding them to the full parliament.
- 7.7 Accordingly, the Ombudsman recommends that any Joint Parliamentary Committee established to oversight the Ombudsman be specifically required to consider not only the Ombudsman's Annual Report but also reports under Ss.27 and 31 Ombudsman Act and S.32 Police Regulation (Allegations of Misconduct) Act.
- 7.8 The Ombudsman believes that Ss. 63, 64, 65, 66, 68, 70, 71 and 72 of the Independent Commission Against Corruption Act are generally appropriate provisions for the establishment of a Joint Parliamentary Committee to oversight the operations of the Office of the Ombudsman.
- The Ombudsman is concerned, however, that S.69(1) which empowers the Joint Parliamentary Committee to "send for persons, papers and records", may conflict with Ss.64(2) and may be inappropriate in relation to the "secrecy provisions" contained in S.34 Ombudsman Act.
- 7.9 The Ombudsman also recommends (see 4.5) that a Joint Parliamentary Committee established to oversight the Ombudsman should have the specific duty of recommending to the Parliament the appointment of the Ombudsman, Deputy Ombudsman and Assistant Ombudsman.

¹¹ Op. cit P.5

7.10 The Ombudsman further recommends (see 5.6) that such a Joint Parliamentary Committee be responsible for recommending the appropriation of funds from Consolidated Revenue for the Office of the Ombudsman.

8. Conclusion

8.1 The need to firmly establish the independence from the executive of the Office of the Ombudsman is long overdue. The only way to guarantee true independence is by making the concept of the Ombudsman as an officer of Parliament a reality, and by making the Ombudsman, with suitable protections, accountable directly to Parliament.

8.2 The most appropriate mechanism to achieve the desired degree of independence and accountability is to establish a Joint Parliamentary Committee to oversight the Ombudsman and by repealing or amending anomalous provisions of the Ombudsman Act and the Police Regulation (Allegations of Misconduct) Act.

9. Recommendations

9.1 The Ombudsman recommends that:

9.1.1 a Joint Parliamentary Committee be established to oversight the operations of the Office of the Ombudsman and that the Ombudsman Act be amended accordingly.

9.1.2 subject to the matters listed below, the amendments to the Ombudsman Act necessary to establish the Joint Parliamentary Committee be in similar form to the provisions of Part 7 Independent Commission Against Corruption Act 1988.

9.1.3 any provision in like terms to S.64(1)(c) Independent Commission Against Corruption Act specifically include as a duty of the Joint Parliamentary Committee, the examination and reporting upon of reports under Ss.27 and 31 Ombudsman Act and S.32 Police Regulation (Allegations of Misconduct) Act.

9.1.4 the following paragraph be added to any provision in like terms

to S.64(2) Independent Commission Against Corruption Act:

(d) to investigate or consider an inspection or report by the Ombudsman under the Telecommunications (Interception)(New South Wales) Act 1987.

9.1.5 consideration be given to any possible conflict between a provision in like terms to S.69(1) Independent Commission Against Corruption Act and S.34 Ombudsman Act.

9.2 The Ombudsman also recommends that the Joint Parliamentary Committee be empowered to recommend to the Parliament appointment of the Ombudsman, Deputy Ombudsman and Assistant Ombudsman, that such appointments be made by the Governor upon the address of both Houses of Parliament and that Ss. 6(1), 8(1) and 8A(1) Ombudsman Act be amended accordingly.

9.3 The Ombudsman further recommends that the Joint Parliamentary Committee be specifically empowered to recommend to the Parliament the appropriation of funds from Consolidated Revenue for the Office of the Ombudsman.

9.4 The Ombudsman recommends that he be empowered to report directly to the Speaker of the Legislative Assembly and to the President of the Legislative Council, and, accordingly, that:

9.4.1 S.30(1) Ombudsman Act be amended by deleting the word "Minister" and substituting therefor the words "Speaker of the Legislative Assembly and the President of the Legislative Council".

S.30(2) Ombudsman Act be amended by deleting the words "Minister" and "him" and by substituting therefor the words, respectively, "Speaker of the Legislative Assembly and the President of the Legislative Council" and "either of them".

9.4.2 Ss.27 and 31(1) Ombudsman Act and S.32(1)Police Regulation (Allegations of Misconduct) Act be amended by deleting the word "Minister" and substituting the words "Speaker of the Legislative Assembly and the President of the Legislative Council".

Ss.31(3) Ombudsman Act and S.32(3) Police Regulation (Allegations of Misconduct) Act be amended by deleting the word "Minister" and by substituting therefor the words "Speaker of the Legislative Assembly and the President of the Legislative Council".

- 9.5 The Ombudsman recommends that such provisions of Schedule 2 Ombudsman (Amendment) Bill 1988, relating to the incorporation of the Office of the Ombudsman and the independence of the Ombudsman from the Public Sector Management Act, be re-introduced, together with those provisions relating to the preservation of rights of existing staff and that the right of appeal to the Government and Related Employees Appeal Tribunal be preserved.
- 9.6 The Ombudsman recommends that Ss.9, 10A and 23 Ombudsman Act be amended by deleting the words "with the concurrence of the Minister", "with the approval of the Minister" and "with the consent of the Minister" appearing respectively in those sections.
- 9.7 The Ombudsman recommends that this report be made public forthwith pursuant to S.31(3) Ombudsman Act.

David Landa
OMBUDSMAN

Document B

The Effective Functioning of the Office of the Ombudsman,
Report to Parliament under Section 31 of the Ombudsman Act,
21 June 1991

SPECIAL REPORT TO PARLIAMENT
PURSUANT TO SECTION 31 OF THE OMBUDSMAN ACT

THE EFFECTIVE FUNCTIONING OF
THE OFFICE OF THE OMBUDSMAN

REPORT TO THE HONOURABLE N F GREINER,
PREMIER OF NEW SOUTH WALES

PRESENTED BY: DAVID LANDA
OMBUDSMAN FOR NEW SOUTH WALES

DATE: 21 JUN 1991

SPECIAL REPORT TO PARLIAMENT PURSUANT TO SECTION 31 OMBUDSMAN ACT

1 Introduction

1.1 The purpose of this report is to inform the Parliament of the Ombudsman's inability to carry out his statutory functions and the charter of the Office of the Ombudsman due to budgetary constraints imposed on the Office.

1.2 On 19 July 1990, the Ombudsman prepared a Special Report to the Parliament on the Independence and Accountability of the Ombudsman.¹ That report, which addressed both philosophical and practical considerations, proposed a comprehensive scheme, together with detailed recommendations for legislative reform, to ensure the full independence of the Ombudsman from executive government, as well as his accountability to the Parliament.

1.3 The report was followed by passage of the Ombudsman (Amendment) Act 1990² which effected a major reform to the accountability of the Ombudsman to Parliament by establishment of the Joint Committee on the Ombudsman (Part 4A Ombudsman Act), a key recommendation of the Ombudsman's report.

By way of contrast, the legislation addressed only the most minor machinery reforms of the scheme proposed and recommended by the Ombudsman on the issue of his independence from executive government. Thus, Ss. 9, 10A and 23 of the Ombudsman Act were amended to remove the requirement for the Ombudsman to obtain the Premier's consent to, respectively:

- the appointment of special officers of the Ombudsman,

¹ Tabled in the Legislative Assembly 5 September 1990.

² Assented to on 4 Dec 1990. Proclaimed on 18 Jan 1991.

- the delegation of functions to an Ombudsman of another State, Territory or of the Commonwealth,
- engaging expert assistance in his investigations.

The legislation failed to implement any of the major reforms which the Ombudsman had recommended as a guarantee of his independence.

Subsequently, after twice rejecting the recommendation of selection committees of an appointment of an Assistant Ombudsman, the government secured passage of the Ombudsman (Amendment) Act 1991.³ This legislation enabled the Ombudsman to appoint persons to the statutory offices of Deputy Ombudsman and Assistant Ombudsman as part of the Senior Executive Service, while preserving Parliament's right to address the Governor for the removal of those persons from Office.

With this further exception, which was proposed by the government, no action whatsoever has been taken to guarantee the independence of the Ombudsman by enacting the major legislative reforms which he recommended as a charter for his Office.

- 1.4 This report addresses the practical effect that the failure to implement one of those major reforms is having on the exercise of the Ombudsman's functions, by virtue of current and foreshadowed budgetary and funding constraints. In the absence of some mechanism to guarantee the budgetary independence of the Ombudsman these constraints amount to an erosion of the Ombudsman's independence.

The Ombudsman is aware of the difficulties which the current economic recession imposes on the government and the responsibility of the government to frame a budget and determine spending priorities. In such a climate the Ombudsman has continued to

³ Assented to on 17 April 1991. Proclaimed on 3 May 1991

exercise the maximum financial restraint. He would be failing in his duty to Parliament, however, if he did not report to it on the worsening financial position of his Office, particularly since July 1990, and of the impact this has had and will continue to have on his ability to maintain services to the public of New South Wales over the next three years.

As the Ombudsman has advised the Premier and Treasurer, unless the position is remedied as a matter of urgency, the Ombudsman will have to further reduce those services immediately.

- 1.5 Because of the urgency of the situation, the Ombudsman has decided to make a report to Parliament requesting immediate action, rather than raising the issue with the Joint Committee on the Ombudsman. As that Committee must be reconstituted by resolution of each House of Parliament following the dissolution of the last Parliament, and given the Ombudsman's understanding that the Committee is unlikely to be constituted and to meet before August 1991, a submission by the Ombudsman to the Committee would have involved unreasonable delay.

2 **Complaint Levels**

- 2.1 In order to partly appreciate the impact of the present budgetary position on the exercise of the Ombudsman's functions, it is essential to understand that the Office of the Ombudsman is a "demand driven" organisation, that is, it has no control over, and must respond to, the level and nature of complaints which it receives. As the accompanying statistical tables and graphs show, following a slight decrease in complaints in 1988-89, there was an increase in complaints in 1989-90, culminating in a massive increase in the 1990-91 financial year.

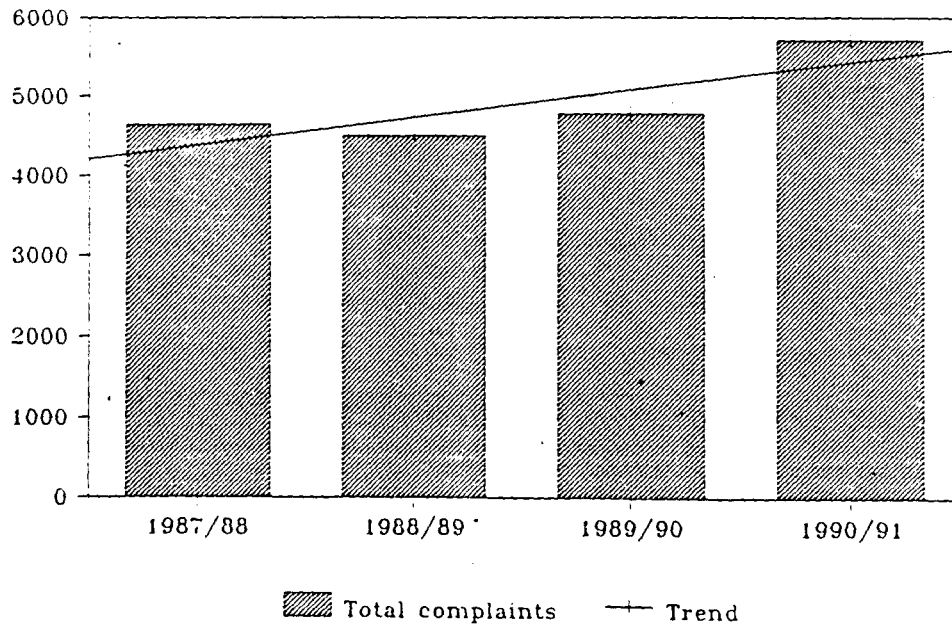
COMPLAINTS RECEIVED

Comparison of Authorities 1988-1991

	1987/88	1988/89	1989/90	1990/91
Departments	1067	969	1097	1062
Councils	672	633	716	703
Prisons	257	321	310	525
Police	2138	2231	2352	3161
OJ#	505	345	302	262
Totals	4639	4499	4777	5713*

Outside Jurisdiction
 * Projected as at 31.5.91

Total complaints 1988-1991

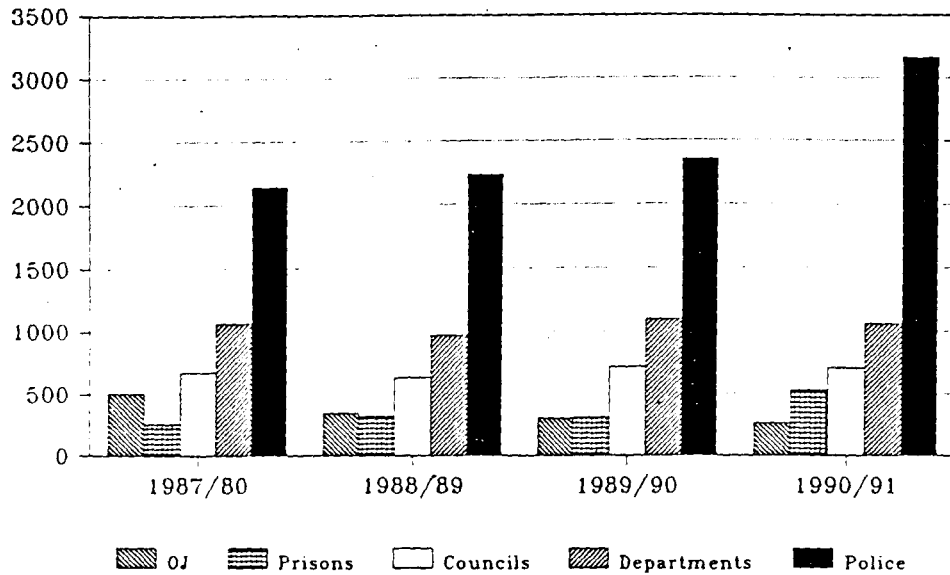


- 2.2 The tables show that whilst total complaints increased by 6.18% between 1988-89 and 1989-90, the overall increase between 1989-90 and 1990-91 is projected at 19.6%, a total increase of 26% in just two years. The total for 1990-91 is based on figures at 31 May and projections for June 1991 and there is no reason to suppose that these projected figures will not be met.
- 2.3 In addition, while the level of complaints concerning departments and local government authorities has remained fairly static for the last four years, the number of complaints about the conduct of members of the Police Service has steadily increased since 1987-88, culminating in a huge increase of 34.4% in the current financial year. Since 1987-88 police complaints have increased by 47.85%.
- 2.4 Similarly, although starting from a relatively small base number, there has been an explosion in the number of complaints concerning prison administration of 69.35% in the last 12 months.
- 2.5 The increase in the number of police complaints is only partly explained by the fact that the Commissioner now notifies the Ombudsman of all complaints made by members of the Police Service about the conduct of other members ("internal" complaints) as required by the decision of Lee J in Ombudsman v Commissioner of Police.⁴ The reasons for the greater part of the increase in police complaints, however, remain matters for speculation.

On the other hand, the increase in prison complaints is almost certainly due to the high level of discontent in prisons generally, which results in complaints which cannot be dealt with adequately by the Official Visitors Scheme. Past experience strongly suggests that there is no reason to believe that the current increases in police and prison complaints will decline. Whilst a plateau may have been reached, there is a real danger that the increases will continue as reflected in the trend line in the chart below.

⁴ 1987 11 NSWLR 386

COMPLAINTS RECEIVED OJ/Prisons/Councils/Departments/Police

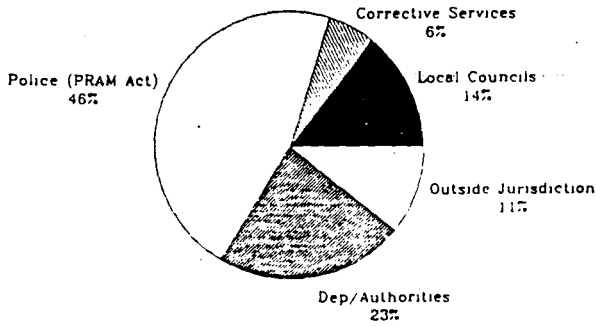


2.6 Furthermore, these complaint statistics have no regard to the other significant trend - that of complaints of increasing detail and complexity and their consequent impact on the level of investigative resources needed to deal with these complaints.

2.7

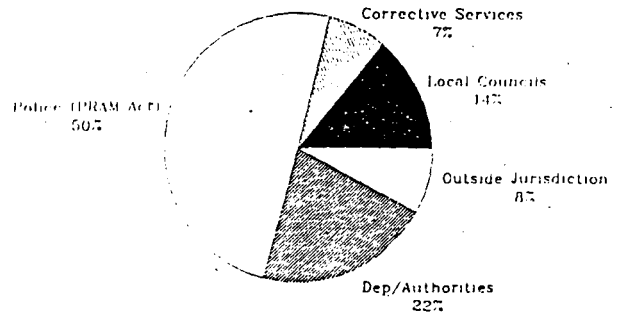
Changes in the "mix" of complaints are immediately apparent from the following graphs:

COMPLAINTS RECEIVED 1987/1988
Comparison of Authorities



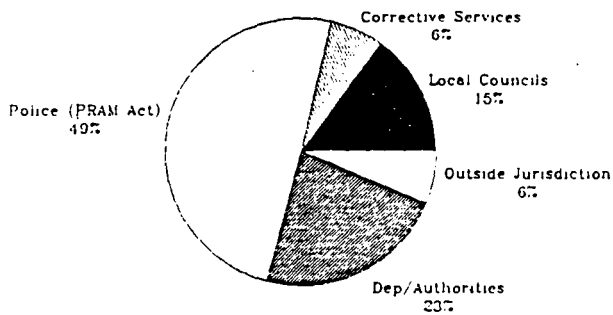
Total Complaints 4639

COMPLAINTS RECEIVED 1988/1989
Comparison of Authorities



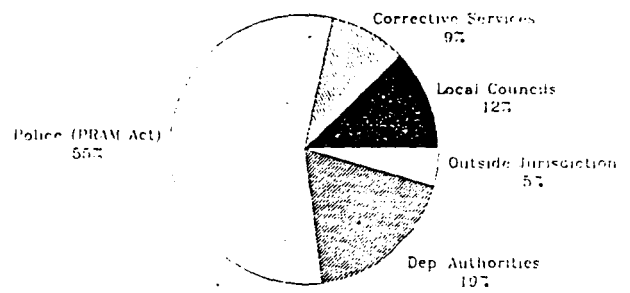
Total Complaints 4199

COMPLAINTS RECEIVED 1989/1990
Comparison of Authorities



Total Complaints 4777

COMPLAINTS RECEIVED 1990/1991
Comparison of Authorities



Total Projected Complaints 5713

- 2.7.1 The most obvious and noteworthy fact is that police complaints, after remaining more or less static (50%) as a proportion of total complaints for three years, now account for 55% of all complaints. Secondly, prison complaints now account for 9% of all complaints, up from 6% in 1987-88. Thirdly, complaints outside jurisdiction have declined from 11% of the total in 1987-88 to 5% of the total for 1990-91.
- 2.7.2 The graphs, however, give no indication of differences in the level of resources needed to deal with complaints under the Ombudsman Act and police complaints under the Police Regulation (Allegations of Misconduct) Act. That Act provides that complaints may be made either to the Ombudsman or to the Commissioner of Police and that each must notify the other of all complaints received. The ultimate decision as to whether a complaint is to be investigated or whether some other action such as conciliation or preliminary inquiries is to be taken, is the Ombudsman's. It is the responsibility of the Commissioner, however, to carry out conciliation, preliminary inquiries or investigations and these are monitored by the Ombudsman who must make the final determination on each complaint. These procedures are cumbersome and time consuming and mean that extra resources have to be allocated to handling police complaints and this leads to a lack of resources to deal with complaints under the Ombudsman Act.
- 2.8 Some analysis is required to understand the significant implications which the increase in levels of and changes in the "mix" of complaints have for the exercise of the Ombudsman's functions and his delivery of services to the public of New South Wales.
- 2.8.1 There appears to be a belief on the part of some Treasury officers that the Office of the Ombudsman is not truly "demand driven". This misconception is based on a misunderstanding of the Ombudsman's

powers and the proper exercise of his discretion to decline to investigate a complaint, and a complete failure to have regard to the nature of any particular conduct the subject of complaint. S.13(4)(a) of the Ombudsman Act provides that the Ombudsman:

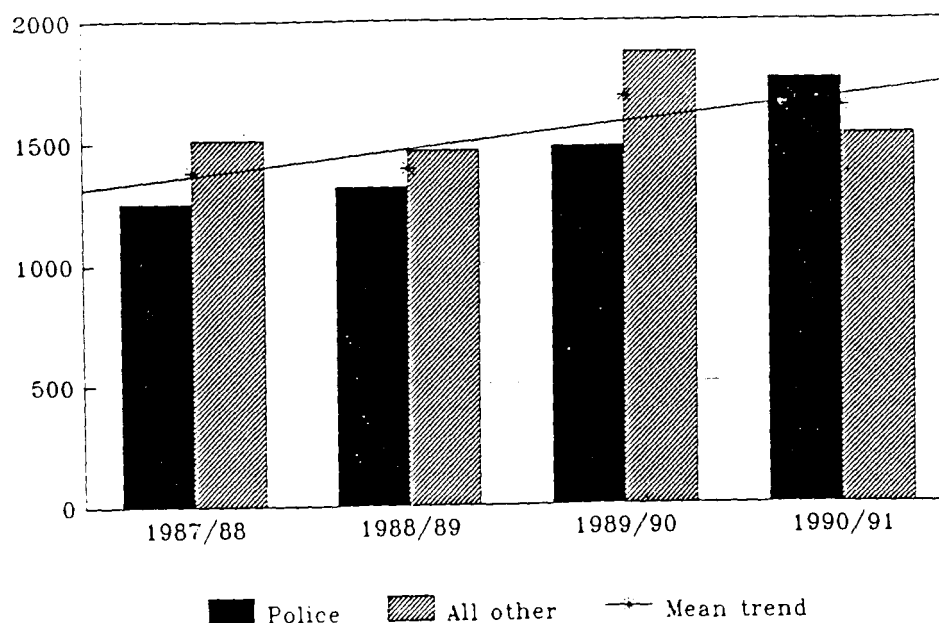
"may have regard to such matters as he thinks fit"

in deciding whether to make the conduct complained of the subject of an investigation. There is a similar provision in S.18(1) of the Police Regulation (Allegations of Misconduct) Act. Clearly the Ombudsman would be entitled to have regard to his financial and investigative resources in declining to investigate complaints, since no complaint-handling agency has unlimited resources.

2.8.2 Such an argument, however, has no regard to the nature or merit of any particular complaint and assumes that the Ombudsman is not being sufficiently selective in choosing which complaints to investigate. Further, it assumes that the only appropriate alternatives are for the Ombudsman either to investigate a complaint or, at the outset, to decline to investigate a complaint. In fact, a large proportion of complaints are the subject of preliminary inquiries by the Ombudsman and many of these are subsequently declined, not because they lack merit but because the problem has been rectified by the public authority as a result of preliminary inquiries by the Ombudsman. Accordingly, the argument wholly fails to address the fact that many complaints deserving attention by the Ombudsman would have to be declined at the outset, purely on a resources basis, and hence there would be a reduction in services to particular complainants. Such a situation raises questions of the public interest not being met and a frustration of the Ombudsman's charter.

2.8.3 The following graph illustrates the rising trend of complaints which are either declined at the outset or after preliminary inquiries.

Total Complaints Declined
at outset and after preliminary enquiry



The Ombudsman is strongly of the view that the rate at which complaints are being declined has reached the highest level which can be tolerated. Should this rate have to be increased because of inadequate resources, there would be a grave risk that the credibility of the Office would be damaged in the eyes of the public as an avenue of last resort.

2.9 As mentioned above, no complaint-handling agency has unlimited resources and all such agencies must be responsible for setting priorities for the commitment of resources. They must also recognise that there will be fluctuations in the level and mix of complaints over time and develop procedures to deal with these variations.

2.9.1 These matters have always been recognised by the Office of the Ombudsman and over the years administrative procedures and structures have been designed to handle complaints in the most efficient and effective ways and in particular to identify these complaints which do not warrant investigation. Some of these procedures are specifically designed to deal with complaints made under the Ombudsman Act and others to deal with complaints under the Police Regulation (Allegations of Misconduct) Act. At the most basic level, however, these procedures have much in common.

Firstly, all complaints are routinely screened, depending on the nature of the complaints either by the Deputy Ombudsman or one of the Assistant Ombudsmen to identify complaints which should be declined at the outset. Thus complaints which are trivial, minor, stale or in respect of which there may be an alternative and satisfactory means of redress are filtered out of the system. Similarly, complaints which are outside the Ombudsman's jurisdiction are quickly identified.

- 2.9.2 More recently, the Ombudsman has implemented new procedures and systems which were either designed to deal more efficiently with changes in the level and mix of complaints or which have been applied to achieve this result.
- 2.9.3 During 1988, the Ombudsman commissioned and implemented a new computerised police complaints database which became fully operational in 1989. This system has not only made the recording and accessing of information more efficient, but has also enabled the Office to track the progress of investigations and to identify potential or actual delays either during the police investigation or within this Office.
- 2.9.4 In April 1989, the Ombudsman obtained the approval of the Premier to make the position of a second Assistant Ombudsman a permanent position. The creation of this permanent position, currently responsible for co-ordinating the investigation of complaints concerning the Department of Corrective Services and local government authorities, has allowed closer supervision of these areas by a statutory officer resulting in efficiencies in dealing with these complaints. Funding for this position, however, continues to be met from within the Office's budget.
- 2.9.5 Between August and November 1989, the Ombudsman undertook an extensive review of functions and procedures within the Office which led to a major restructuring of investigative resources by the creation of four investigation teams. Each team is headed by a Senior Investigation Officer and includes investigation officers, assistant

investigation officers and investigative assistants. The principal aim of the restructuring was to achieve greater consistency in decision making and also to establish a mechanism to review decisions to decline complaints. A major consequence of the restructuring has been that the total investigative resources of the Office have been applied more efficiently leading, in turn, to a greater capacity to deal with an increase in the level of complaints. The restructuring required the reclassification of a number of positions and the total cost was met from within the Office's budget.

- 2.9.6 In October 1989, the Ombudsman commissioned consultants to prepare an Information Processing Strategic Plan to identify ways and means by which the efficiency and effectiveness of the operations, management and administrative procedures of the Office could be improved by the implementation of integrated computer systems without additional expenditure on staff. Central to this plan was the introduction of a Vax based network/database which provides updated word processing facilities for investigative staff. On 27 February 1990, the Secretary of the Treasury approved the commitment of \$231,000 from savings within the Office's 1989-90 budget for the purchase of this system. It must be emphasised that, but for the one-off savings that resulted from an inability to recruit experienced staff in 1989-90, the opportunity to introduce an integrated computer system to deal with complaints and to expand word processing facilities to all investigative staff would never have arisen. The system is now installed, fully operational and has already led to increased efficiencies.

The Information Processing Strategic Plan is ongoing and subject to constant review. The dramatic increase in complaints in the past financial year has meant that expansion of system's capacity has had to be brought forward in order to maintain efficiencies already achieved. This is dependent on approval of quite modest proposals by the Ombudsman in the Capital Works Program for 1991-92 - 1993-94. Details of this program are referred to later in this report.

2.9.7 In November 1988, with the co-operation of the former Commissioner of Police, the Ombudsman instituted regular monthly meetings with the then Assistant Commissioner (Professional Responsibility), Mr Lauer, as officer in charge of the Internal Affairs Branch, to discuss issues arising in the police complaints system. These discussions and meetings have led to a number of new procedures to deal more efficiently with police complaints. Firstly, following a direction by the former Commissioner, investigating police conducting preliminary inquiries at the request of the Ombudsman must complete those inquiries within 60 days. Secondly, informal guidelines have been established under which the Ombudsman would decline those "internal" complaints which raised management issues within the Police Service and which could properly be left for the Commissioner to deal with. Thirdly, the Ombudsman and the current Assistant Commissioner (Professional Responsibility) have established a working party to devise procedures for dealing with a greater number of complaints by conciliation, rather than by preliminary inquiries or by formal investigation. Each of these administrative reforms has produced or will produce greater efficiencies in filtering complaints with a consequent saving of investigative resources. This is particularly important given that police complaints are increasing both in absolute terms and as a proportion of the total complaints received by the Office of the Ombudsman and given the cumbersome nature of the police complaints scheme under the Police Regulation (Allegations of Misconduct) Act.

2.9.8 Prior to the commencement of the 1990-91 financial year, and recognising the rising complaint load, the Ombudsman embarked on a concerted effort to deal with expected increases in complaints by maintaining a full staff complement as well as engaging temporary investigative staff to replace investigators engaged on a major investigation. This effort was successful with an average annual staff level of 73.5 achieved on an approved staff establishment of 74. The response of the Ombudsman's investigative staff in dealing with the huge increase in complaints over the last 12 months has been outstanding. In 1989-90, 2,077 police complaints were processed and

finalised, with 18% of complaints being the subject of formal investigation under Part 4 of the Police Regulation (Allegations of Misconduct) Act. In 1990-91, based on projections as at 31 May 1991, the Office will have processed and finalised 2,630 police complaints. This is a singular achievement particularly when it is realised that the number of complaints sent for full investigation had risen not only in absolute terms, but had also risen to 23% of the total.

- 2.9.9 Despite constant review of the Office's procedures for dealing with complaints, there are limits to the efficiencies which can be achieved where complaint levels are rising sharply and where the mix of complaints is also changing. These limits have now been reached. Despite processing 563 more police complaints in the past year than in 1989-90, the carry over figure for 1991-92 will increase by 236, as a result of the huge increase in police complaints in 1990-91. Further, partly as a result of the extra resources that have had to be allocated to the police complaints area, the number of general complaints finalised in the last 12 months is projected to decrease from 2456 in 1989-90 to 1988. The decrease is also explained by the decline in complaints outside jurisdiction (which can be processed quickly and routinely) between 1987-88 and 1990-91, leaving a greater number of complaints to be considered at later stages of the filtering process; and by the increase in prison complaints which, by their nature, require greater investigative resources, such as visits to gaols, many of which are outside the metropolitan area. The decrease will mean that the total complaint carry-over figure for 1991-92 will increase even further.

3 **Staffing**

- 3.1 The performance of the Office of the Ombudsman in 1990-91 is even more remarkable when a close examination of the comparative staffing levels over the last four years is made.
- 3.2 As at 30 June 1987, the approved staff establishment number for the

Office was 62 and this number had increased to 67 as at 30 June 1988. However, 4 of the extra 5 positions created during that year were for the purpose of exercising the Ombudsman's new inspection and audit function of "eligible authorities" under the Telecommunications (Interception)(New South Wales) Act 1987. The fifth position was that of Assistant Investigation Officer (Aboriginal Complaints) designed to deal with a specialised area. In fact, however, the average staff level of the Office fell from 67.7 in 1987-88 to 62.6 in 1988-89.

- 3.2.1 As at 30 June 1989, the approved staff establishment number was 74, with the addition of 4 positions to deal with the Ombudsman's external review function under the Freedom of Information Act 1988, a Data Control Officer, a Public Relations Officer and an extra keyboard operator. Average staff level throughout 1989-90 was actually 70.2, rising to 73.5 in 1990-91.
- 3.3 When these figures are analysed, it will quickly be seen that the number of investigative staff available to handle complaints under the Ombudsman Act and Police Regulation (Allegations of Misconduct) Act has remained almost static since 1987-88. Yet in that time, total complaints received have increased by 2390, from 4,639 to 5,713.
- 3.4 The analysis of statistics relating to the number of complaints and staff numbers show that simply to maintain the level of services provided in 1990-91, the Ombudsman will at least have to maintain current staff levels in ensuing years. As discussed later in this report, however, Treasury Forward Estimates provided to the Ombudsman for 1991-92 and later years, make the maintenance of current staff levels quite impossible. In fact, having regard to the increase in complaints in 1990-91 and the absorption of past costs, the Ombudsman estimates that a minimum increase of two investigative staff and one administrative officer is required.
- 3.5 The statistics on staff numbers do not reveal the huge unpaid work by the Ombudsman's staff. For instance, an internal survey

conducted in 1990 revealed that for the period 12 February to 27 July 1990, more than 1,400 excess hours were worked outside the flexible working hours scheme. This figure does not include hours worked overtime, the majority of which are not claimed for.

4 **Budget and Finances**

4.1 In the Special Report to Parliament of 19 July 1990 on the Independence and Accountability of the Ombudsman, the Ombudsman said:

The ultimate control which any executive has over a public official is the power to control his budget. Whilst the Parliament is responsible for passing the annual appropriation Bills, it is the executive which has control over the whole process leading up to the presentation of this legislation to the Parliament.

4.2 In his earlier report, the Ombudsman also referred to the assistance given to his Office in recent years by Treasury officials and the approval for additional funding for the relocation of the Office in 1989, as well as the funding of new functions under the Telecommunications (Interception)(New South Wales) Act and the Freedom of Information Act. The point has now been reached, however, where the resources available to the Ombudsman in respect of his functions under the Ombudsman Act and the Police Regulation (Allegations of Misconduct) Act are no longer adequate, having regard to the increase in complaints, the static number of investigative positions, and the absorption of costs incurred to achieve efficiencies in complaint handling.

4.3 The following tables demonstrate the budgetary position of the Office of the Ombudsman between 1987-88 and 1990-91.

4.3.1	1987-88	1988-89	1989-90	1990-91
Appropriation from Consolidated Fund	\$000 3054	\$000 3707	\$000 4164	\$000 4178

4.3.2 In order to obtain a comparison between the current position and that in 1987-88, these figures must be adjusted to make allowance for increased funding for functions under the Telecommunications (Interception)(New South Wales) Act, the Freedom of Information Act, a one-off provision for rent associated with the relocation of the Office in 1989-90 and various "user charges" introduced progressively since 1988-89 in order to obtain a comparison with 1987-88.

4.3.3 The following table shows these adjustments:

	1987-88	1988-89	1989-90	1990-91
	\$000	\$000	\$000	\$000
Appropriation	3054	3707	4164	4178
Less				
Telecommunications		262	200	200
FOI			123	123
Rent provision			155	
State wide payments (user charges)		129	276	304
TOTAL	3054	3316	3410	3551

4.3.4 The real increases in funding are shown below

	1987-88	1988-89	1989-90	1990-91
		8.6%	2.8%	4.1%

4.3.5 The apparent increases in funding since 1989-90 are clearly illusory. The funding has not covered inflationary costs. The level of services which the Ombudsman has maintained over the past three years has largely been achieved through the administrative efficiencies which he implemented during that time. As long as the level and mix of complaints remained within reasonable limits, such funding was barely adequate. That is no longer the case.

4.4 **Supplementation 1990-91**

4.4.1 During the past 12 months, the Ombudsman has sought supplementation from the Treasury to fund a major investigation of a complaint of allegations of widespread assaults by prison officers

referred to his Office by the former Minister for Corrective Services in June 1990. Supplementation was also sought to fund litigation in the Supreme Court commenced against the Deputy Ombudsman and Assistant Ombudsman. Notification of the need for supplementation for both matters was given as early as mid-July 1990 and an estimate of \$65,000 was provided as the possible cost of the prison investigation. On 15 November 1990, the Ombudsman wrote to the Premier and Treasurer providing detailed costs of this investigation, as at 31 October, of \$54,399.13. The Ombudsman stated:

As previously indicated, this inquiry has had a major impact on the resources of this Office and I am not in a position to absorb the cost.

- 4.4.2 On 18 December 1990, the Premier and Treasurer wrote to the Ombudsman advising:

As previously advised, I consider it too early in the budget year to provide supplementary funding for this inquiry. However, by the end of March 1991, when firmer estimates of total expenditure will be available, the matter should be again raised with Treasury officers and further consideration will be given to supplementary funding.

- 4.4.3 On 20 March 1991, the Ombudsman again wrote to the Premier and Treasurer advising him of the final cost of the investigation - \$68,095.01. The Ombudsman stated:

It has been my expectation that, given the Minister's decision to refer this matter to my Office to conduct an Inquiry, rather than establishing a specific Royal Commission or some other form of Inquiry, this Office would be compensated for the extra-ordinary drain on its resources which such an Inquiry imposes.

I undertook this Inquiry because I believe that the independence of this Office, coupled with its infrastructure and expertise in such issues, would be a public guarantee of an impartial and proper investigation of extremely serious allegations. These factors, combined with economic considerations, make the conduct of such inquiries by the Ombudsman's Office, as opposed to establishing a specific Royal Commission Inquiry, a more efficient and effective utilisation of the State's resources. However, this Office's

financial resources are such that appropriate and separate funding be made available for the cost of this Inquiry and any future inquiries of this nature. I am sure that you will agree that the final cost of this Inquiry is modest by any comparative standard.

I advise that, in the absence of any earlier confirmation from you of special funding for this Inquiry, I have already had to exercise financial restraint and have not renewed contracts of those staff temporarily engaged to assist with the other workload of people involved in the Inquiry. As a result, the current small savings in the employee related payments in this Office's budget, reflect the fact that I have already had to reduce the resources of the Office available to deal with complaints by the public. I would expect that this responsible stance would be recognised and met with the full supplementation requested.

I have reported to you recently about other matters relating to this Office's budgetary situation. You are aware, therefore, of the tight financial constraints impinging on this Office. It is crucial therefore, for the Office's operation, that funding for the Prisons Inquiry be provided to this Office without delay.

On 7 May 1990, following discussions with the Office's Treasury Inspector concerning a revised basis for costing the services of temporary staff, the Ombudsman wrote to the Secretary of the Treasury advising him of the revised cost of \$62,667.49.

- 4.4.4 Similarly, on 10 July 1990 and 27 February 1991, the Ombudsman had written to the Secretary of the Treasury initially notifying him of the commencement of legal proceedings and the need for supplementation and later providing detailed costs of the proceedings. The proceedings have not yet concluded.
- 4.4.5 It was not until 31 May 1991, that the Premier and Treasurer advised the Ombudsman that supplementation of \$143,000 had been approved for the 1990-91 financial year.
- 4.4.6 The delay in providing supplementation for the prison investigation and litigation has made it impossible to plan and use investigative resources most efficiently. On the one hand, the cost of the prison investigation was small compared to the possible alternatives of a

Royal Commission or some other form of independent inquiry which would have required not only the costs of establishment already in existence in this Office but also high additional costs of salaries and legal fees. No doubt this was one of the reasons for the Minister referring the matter to this Office. However, because of uncertainty as to whether supplementation would be approved, the Ombudsman was unable to renew the contracts of temporary staff employed to cover the work of investigative staff working permanently on the prison inquiry. This, in turn, had an effect on the overall productivity of the Office in terms of dealing with complaints. Uncertainty associated with the delay in approving supplementation for the litigation meant that, even allowing for a reasonable exercise of risk management in the expenditure of funds, the Ombudsman was forced to severely cut back expenditures in other necessary areas.

4.5 **Supplementation 1991-92**

4.5.1 Under the terms of the lease negotiated on behalf of the Ombudsman by the former Office Accommodation Bureau, the Office faced a rent review on 1 March 1991. The Ombudsman raised the funding of the rent review in a letter of 26 November 1990 to the Premier and Treasurer. The Ombudsman referred to previous discussions on this topic with Treasury officers when budget estimates for 1990-91 were first submitted.

4.5.2 On 16 February 1991, the Premier and Treasurer advised the Ombudsman that:

In terms of my Memorandum No. 90-54, I pointed out that in conjunction with the devolution of the responsibility for accommodation arrangements to Departments, consideration will only be given to the provision of additional funding in respect of single-occupancy rent increases, to the excess of the rent increase over the enhancement threshold. You will need to reconsider the matter in this context once the actual rental increase is known.

On 31 May 1991, the Premier and Treasurer advised

I refer to my advice of 16 February in which I pointed out that consideration will be given to additional funding in respect of single occupancy rent increases to the excess of the rent increase over the enhancement threshold (which is in the case of the Office of the Ombudsman \$100,000). You will need to consider the matter in this context once the actual increase is known.

4.5.3 In simple terms, this means that the Office of the Ombudsman will have to absorb any increase up to \$100,000 without any adjustment to its current budget allocation, because of the fact that the Office is a single-occupancy tenancy. This requirement has no regard to the historical position of the Office of the Ombudsman in investigating other public authorities and the need for it to be seen to be independent. This fact was recognised by a former Ombudsman, Mr K Smithers, who negotiated a lease for previous premises occupied by the Office which contained a covenant restricting the Lessor from renting other parts of the premises to government departments or instrumentalities. Accordingly, when the Office was relocated in October 1989, the Ombudsman leased premises which were not occupied by any other government department. The necessity for a single occupancy tenancy was recognised and approved by the Premier. The costs associated with this tenancy must be recognised and rent reviews must be met with further supplementation, in this instance, for 1991-92, and by way of adjustment to the Office's maintenance budget for 1992-93, 1993-94 and future years. A decision on this question must be made as a matter of urgency.

4.5.4 At this stage, the Ombudsman has had to make provision from within the Office's recurrent budget, by way of inter-year transfer to the 1991-92 allocation, of \$35,000 to cover possible costs of the rent review which is still not determined, for the period 1 March - 30 June 1991.

If an exception is not made to the single occupancy tenancy threshold, 1991-92 will see a further erosion in the Ombudsman's

ability to deliver services by a further effective reduction in the finances of the Office.

4.6 **Forward Estimates - Maintenance Dispute**

- 4.6.1 On 1 February 1991, the Ombudsman wrote to the Secretary of the Treasury notifying him of a "maintenance dispute", seeking an adjustment to the Office's Forward Estimates for the years 1991-92 - 1993-94. The Ombudsman detailed the increase in complaints, the static number of investigative staff since 1987-88 and attempts to meet the allocations proposed for forward years by slashing expenditure. The Ombudsman advised:

It is absolutely clear that the reduction of my budget in the next financial year alone will leave me with no option but to reduce services. Increased rental costs, an increase in the number of complaints, the increased costs of conducting investigations, in the context of a decreased budget allocation with no guarantee for indexing of costs for items, places my Office in an extremely precarious position in terms of fulfilling all its statutory obligations and functions. I simply am unable to continue to deal with the greater demand for my services with less resources. On current estimates, my Office will face a total shortfall of \$190,000 if the Office is only provided with the allocation as advised on 7 December, 1990. It would be irresponsible not to advise you of my position and to alert you to the extreme difficulty this Office faces in the event of only receiving the proposed allocation. In relation to providing you with revised dissections of allocations for the 1992/93 and 1993/94 financial years, I am, for the reasons previously expressed, simply unable to do so in any meaningful way. This situation is most undesirable and one which, as I advised the Premier on 26 November 1990, I would consider bringing formally to the Parliament's attention.

On the detailed costings prepared by the Ombudsman, the Office faces a prospective shortfall of \$137,000 in employee-related payments (75% of the Office's total budget) in 1991-92. This could lead to only one result - a reduction in staff levels.

- 4.6.2 In common with all government agencies dependent on appropriations from the Consolidated Fund, the Office of the Ombudsman has been required to achieve productivity savings and the Forward Estimates

provided to the Ombudsman notified that productivity savings had been maintained at 1.5 per cent for 1991-92 and the two forward years.

The Ombudsman accepts the need for productivity savings in an effort to achieve greater efficiencies in public sector expenditure. The internal procedural reforms and savings outlined earlier in this report have enabled the Ombudsman to meet these savings. As noted earlier, however, the limits of efficiency have now been reached. In this context Treasury's advice that:

Productivity savings are to be achieved by improved procedures and administrative arrangements to reduce the unit cost of activities and should not involve service reduction. It will be necessary for agencies to develop strategies to improve, on a continuing basis, the efficiency with which they undertake their activities.⁵ (emphasis added)

simply ignores reality.

- 4.6.3 On 21 February 1991, the Ombudsman again wrote to the Secretary of the Treasury, emphasising that the total projected shortfall of \$190,000 had been achieved only after the Ombudsman had prospectively slashed recurrent expenditure by \$86,500. These cuts would cover costs associated with motor vehicles, travel, advertising/publicity, legal opinions and training - all essential areas. For instance, the travel budget would have been slashed by 75% with a severe impact on the Ombudsman's ability to conduct investigations, site inspections and Section 19 Inquiries and public awareness campaigns outside the metropolitan area.

The Ombudsman concluded:

It has to be understood that Treasury's proposed maintenance budget allocation fails to recognise the demand driven nature of the work of my Office and the significant increase in this demand over the past three years. If these facts are not recognised in an increased allocation, then this Office will be

⁵ Forward Estimates 1991-92 - 1993-94, Explanatory Note p.2

placed in the impossible position of further reducing services and inevitably be prevented from fulfilling its charter. This situation would be intolerable and one which would be reported publicly via the Parliament.

- 4.6.4 It should be emphasised that adjustment of the Office's recurrent funding as outlined above will only enable the Ombudsman to maintain services at the current level. In order to deal with the carry over of complaints from the current financial year and to meet complaints expected to run at the same level as in 1990-91, the Ombudsman must have further funding to increase his investigative and support staff by two investigation officers and one administrative officer. The total funding for these positions, including all on costs of leave loading, superannuation and payroll tax, is estimated to be \$134,000.

Further, adjustment must also be made to recurrent funding to enable the Ombudsman to properly undertake major investigations, rather than having to seek supplementation each year. There must be recognition of the impact of such cost effective special investigations in terms of the improvement to public administration in New South Wales. The Ombudsman has already undertaken three such major investigations in the last two years - the Inquiry into Baulkham Hills Shire Council, the Prison Inquiry referred to earlier, and an Inquiry into the use of the Tactical Response Group during a police raid on members of the Aboriginal community in Everleigh Street, Redfern in 1990 (Operation "Sue"). A further major investigation into allegations of assault and excessive use of force by prison officers on prisoners at Parklea Gaol in 1990 has already been commenced with a projected cost of \$44,890.78. Annual funding of approximately \$100,000 will be needed to meet the costs of such Inquiries.

4.7 **Capital Works**

- 4.7.1 On 5 April 1991, the Ombudsman provided a submission to the Secretary of the Treasury for the Forward Capital Program for the

years 1991-92, 1992-93 and 1993-94. In addition to an annual recurrent provision of \$21,000 already allocated to the Office in the Forward Estimates, the Ombudsman sought \$30,000 for the 1991-92 year, \$48,000 for 1992-93 and \$11,000 for 1993-94. The total additional costs of \$89,000 spread over three years is modest and the proposals are essential to maintain the current level of services. The program for 1991-92 involves upgrading and improvement of the IBM police complaints database (\$13,000), expansion of disk space for the Vax based general complaints database (\$9,000) and purchase of a barcode monitoring system to increase efficiency of records management by tracking general area complaints and as an adjunct to a fixed assets register consequent upon the implementation of accrual accounting.

The 1991-92 proposal for minor works in terms of the recurrent annual provision of \$21,000 addresses the need to replace three photocopiers purchased in 1985 and 1986. These old copiers are constantly in need of repair and are now inadequate for the Office's need for speedy, clear, reliable and voluminous copying. With the complete failure of one of those copiers, the Ombudsman has already had to allocate funds out of the 1990-91 budget for a replacement.

- 4.7.2 The total proposal for 1992-93 involves the expansion of the Vax system with provision for the purchase of nine further terminals to allow greater access by investigative staff. At present one terminal is available for each office shared by two investigation officers. Expansion of the system will lead to increased productivity and greater efficiencies in complaint handling.

Minor works in terms of the recurrent annual provision cover the replacement of outmoded audio equipment (\$7,966), desk top publishing hardware and software to produce reports, pamphlets and information sheets in-house (\$10,600) and ergonomic furniture and equipment to support this (\$2,434).

- 4.7.3 The 1993-94 proposal, in accordance with the Office's Information

Processing Strategic Plan, allows for greater expansion of the computer systems by the purchase of further additional terminals (\$11,000).

The minor works proposal funded from the annual recurrent provision covers the cost of a new printer in the Telecommunications Interception Inspection Unit (\$3,000) and a laptop portable computer (\$10,500), software (\$2,500) and modem (\$2,000) to facilitate investigations held in prisons, juvenile institutions and in country areas.

- 4.7.4 The Capital Program proposed by the Ombudsman is not only modest, it represents the basic requirements to maintain the current level of services to the public. In particular, without upgrading of the computer database systems, the Office will not be able to cope with current complaint levels and will not be able to maintain efficiencies in complaint processing already achieved.

5 **Freedom of Information (FOI)**

- 5.1 After the experience of two years investigating FOI complaints in his Office, the Ombudsman believes that major reform of the FOI Act is needed. The Act is unnecessarily complex and there are too many exemption clauses in Schedule 1. The Ombudsman, however, believes that these concerns should be addressed in a separate report specifically devoted to the operation of the Freedom of Information Act.
- 5.2 The Ombudsman's principal function, under S.52 of the Freedom of Information Act, is to investigate complaints concerning determinations made by agencies under the Act. These investigations are conducted using powers conferred on the Ombudsman under the Ombudsman Act. The only other avenue for external review is by appeal to the District Court. The vast majority of external reviews are in fact conducted by the Office of the Ombudsman.

From the applicant's perspective there are two major reasons why review of FOI determinations by the Ombudsman are of particular significance. Firstly, the review is external to the agency which made the original decision and, secondly, in comparison with the District Court, the process is quick, free and informal.⁶

5.3 Although many reviews have been conducted informally, with agencies agreeing to reconsider their determinations, in general the investigation of FOI complaints is complex and time consuming. There appear to be two reasons for this. Firstly, the Act itself is extremely complex and technical. Secondly, many agencies are not only reluctant to concede that their original determination may have been unreasonable, but actively defend the determination. It is the experience of this Office over the last 12 months that a greater proportion of FOI complaints are the subject of preliminary inquiries or investigations than other complaints made under the Ombudsman Act.

5.4 The most immediate problem for the Office of the Ombudsman in terms of its FOI external review function is obtaining approval to maintain FOI staff and gaining some additional funds.

5.4.1 On 4 October 1988, the Acting Ombudsman wrote to the Premier advising that additional positions would need to be created to fund the functions proposed to be conferred on the Ombudsman under the Freedom of Information Act. These positions consisted of two investigation officers (Grade 7/8), one Clerk (now designated as Assistant Investigation Officer - Grade 4/5) and one general scale typist, at a total annual cost of \$114,065. On 27 February 1989, the Secretary of the Treasury advised that consideration of this request should await discussions between the Ombudsman, the Director of the FOI Unit in Premier's Department and Treasury's Budget Inspector, in order to assess the reasonableness of the request.

5.4.2 The Ombudsman responded immediately by letter on 28 February 1989, advising the Secretary of the Treasury:

⁶ Freedom of Information Act Annual Report 1989-90 p.22

I note with surprise Treasury considers it is not in a position to consider my request. Parliament intends that the Office of the Ombudsman carry out the function designated to my Office under the Freedom of Information legislation which is said to be taking effect on 1 July. Clearly without funding no creditable performance of the statutory duties imposed upon this Office can be carried out. Unless there is an immediate reconsideration of this matter, which has been with Treasury since October 1988, I propose to report to Parliament forthwith. If the Bill is to become effective on 1 July, as advised to my Office, we should be advertising to fill positions immediately as a training period is involved.

It is, of course, difficult to assess staff requirements of an Act yet to be put into effect. My assessments however are reasonable and I believe are minimal. It is my understanding that the Treasury Department itself has already appointed an officer to deal with freedom of information requests. It is difficult to see therefore how the statutory authority most likely to be receiving the majority of the states enquiries and deal with challenges is to be left unfunded totally. Staff numbers could be reassessed after twelve months. Recommendations could then be made to either increase or decrease those numbers in light of experience.

The Ombudsman concluded by requesting the Secretary to review his decision and advising of the possibility that the Ombudsman would report to Parliament on the matter.

5.4.3 On 22 March 1989, the Secretary of the Treasury gave approval for funding of \$123,000 for the additional positions for the 1989-90 budget year, subject to "the staff requirement being reviewed after twelve months".

5.4.4 On 14 May 1990, in response to a request from the Secretary of the Treasury, the Ombudsman forwarded a detailed report covering the work of his FOI officers, analysing complaint statistics and future trends, and requesting approval for the four positions to be retained as permanent positions.

On 26 June 1990, in the absence of any written reply to his earlier letter, the Ombudsman again wrote to the Secretary of the Treasury, detailing discussions with Treasury Inspectors and advising that it was

imperative that continued staffing and funding for FOI be provided.

On 27 June 1990, the Secretary of the Treasury advised

I wish to advise that approval has been given to your Office retaining the additional staff number of four positions and the funding on a temporary basis pending a management review of your organisation by the Office of Public Management as directed by the Premier and Treasurer.

- 5.4.5 In his Special Report of 19 July 1990, the Ombudsman referred to the implications of a review by the Office of Public Management for the independence of his Office; where the Premier had directed a review of the Office of the Ombudsman by an organisation which was responsible ultimately to the Premier and yet was a public authority subject to the Ombudsman's jurisdiction.⁷

On 17 July 1990, the Ombudsman met with the General Manager of the Office of Public Management and expressed his concern at these matters. The position remained unresolved.

- 5.4.6 Finally, on 19 April 1991, the Ombudsman again wrote to the Secretary of the Treasury stating:

I am concerned that the issue of FOI staffing levels has still not been resolved. This uncertainty has implications, both for the overall financial and operational aspects of the Office, and as previously reported to Treasury, for FOI staff whose contracts of employment expire at the end of June. These staff are understandably concerned about the question of their continued employment and the stability of the section is jeopardised where staff who are otherwise happy but uncertain of their employment status, are considering alternate employment opportunities.

The Ombudsman also referred to the abolition of the Premier's Department FOI Unit as at 30 June 1991 and pointed out that in the absence of the Unit, responsibility for any "educative" function in

⁷ Paragraph 6.9 and 6.10

terms of the FOI Act would naturally devolve upon his Office.

Treasury has not replied to this letter and the uncertainty continues.

5.4.7 A most serious position has now been reached where the Treasury has failed to respond to the Ombudsman's repeated requests for approval to permanently establish his Office's FOI staff positions. This is quite impossible to understand, given that the funding for these positions is part of the Office's maintenance, or recurrent, budget. Whatever the reason for the Treasury's inaction, the Ombudsman believes that the matter is so serious as to require an immediate response by the Parliament.

5.5 The abolition of the Premier's Department FOI Unit, mentioned earlier, is likely to add to this workload. For instance, during the first 12 months of the Unit's operation, it received 4,300 telephone enquiries⁸ and the Ombudsman understands that more than 5,000 telephone enquiries were received in the last 12 months. The Unit has been responsible for training FOI officers in agencies and disseminating information about the Freedom of Information Act to the public. The Ombudsman firmly believes that demand for information about the Freedom of Information Act will continue at a high level and, with the demise of the FOI Unit, much of the de-facto responsibility for servicing this demand will fall on his Office.

In 1989-90, the Office of the Ombudsman received 6,522 telephone inquiries relating to his general functions. Between 1 July 1990 and 31 May 1991, this figure had risen to 7,571, excluding FOI inquiries which accounted for a further 200 telephone calls, the latter being handled by one Assistant Investigation Officer in addition to his other duties. Inquiry officers are currently working at full capacity and if expected FOI demand eventuates, the Office will require funding for one further Assistant Investigation Officer.

⁸ Freedom of Information Act Annual Report 1989-90 p.31

6 **Public Awareness**

6.1 The availability of information about and access to services provided by the Ombudsman are matters of fundamental equity and fairness. The right to make a written complaint to the Ombudsman, which is also an essential prerequisite for an investigation under both the Ombudsman Act [S.12(1)] and the Police Regulation (Allegations of Misconduct) Act [S.6(1A)], is not, of itself, a sufficient guarantee either of access or availability in an equitable fashion. In recognition of this, successive Ombudsmen have implemented programs to ensure that the services of his Office are available to those groups disadvantaged by geographical or special circumstances.

6.2 Inmates of prisons and juvenile institutions, by the very circumstance of their incarceration, are especially disadvantaged. This is so despite specific provisions in the Ombudsman Act [S.12(3)] and the Police Regulation (Allegations of Misconduct) Act [S.6(3)] requiring persons having superintendence of those in lawful custody to take all steps necessary to facilitate the making of complaints by those detained. Many inmates are, quite realistically, afraid to raise some types of complaints in the absence of personal contact with investigation staff of the Ombudsman's Office.

6.2.1 For many years, the Ombudsman's investigation officers have regularly visited prisons and juvenile institutions to speak to inmates. Usually, these visits are not conducted in the exercise of formal investigation powers conferred by the Ombudsman Act but rather, have been carried out with the co-operation of the Department of Corrective Services and the Department of Family and Community Services, both of which have recognised the benefit of having grievances dealt with simply and speedily. In the interests of the most efficient use of investigative resources, investigations which are being conducted are combined with general visits. In the case of both groups of institutions, these visits continued after the introduction of Official Visitors Schemes by each Department.

- 6.2.2 In the past two years, however, with the large increase in complaints and the consequent increase in demands on investigative resources, visits to prisons and juvenile institutions have been drastically reduced. This is of grave concern to the Ombudsman, firstly because of the enormous rise in complaints by prisoners, secondly because suggestions have been made that juveniles in custody, unlike adult prisoners, are generally unaware of the Ombudsman as an avenue of complaint, and finally, because of perceived deficiencies in and restrictions on the operation of the Official Visitors schemes, and inadequacies in the way in which the Department of Family and Community Services deals with complaints.
- 6.2.3 There are presently 28 adult prisons (this will increase to 29 in September 1991), 13 of which are situated in the metropolitan or outer metropolitan area, with 15 situated in country areas. The Ombudsman considers that metropolitan prisons should be visited every three months and country prisons every four months. Having regard to the number of inmates in each prison and the geographical position of prisons, both of which factors will determine whether one or more prisons can be covered in each visit, the optimum number of visits would be 93-97 per annum. In fact, in 1989-90 only 22 visits were made and this fell to 17 in 1990-91. Restriction on resources have meant that some prisons have not been visited in 12 months.
- 6.2.4 There are 9 juvenile institutions (excluding establishments for state wards), 5 of which are in the Sydney metropolitan area and 4 in non metropolitan areas. In 1988-89 a total of 12 visits were made, falling to 5 visits in 1989-90 and rising to 9 in 1990-91. The last figure, however, is misleading, given that Minda Detention Centre was visited three times (twice within one month) because of specific complaints or investigations. On the basis of criteria similar to those applying to prisons, the optimum number of visits to juvenile institutions would be 32 per annum.
- 6.2.5 Because of the additional costs of travel and accommodation, prison visits have tended to concentrate on metropolitan establishments.

This discriminates against inmates of country prisons who are disadvantaged by reason of both their incarceration and geographical position.

6.2.6 At present, both the Department of Corrective Services and the Department of Family and Community Services maintain Official Visitors schemes which are essentially designed to deal with the simpler and local complaints. The Ombudsman understands that, whilst Visitors have unrestricted access to the institutions for which they are responsible, they are paid only for one visit per institution per month. In the case of Official Visitors to detention centres, special approval must be given for payment for additional visits. This means that there is a positive disincentive to Visitors making necessary follow-up visits in respect of particular complaints.

6.2.7 In general then, the Ombudsman has been unable to maintain the previous level of services to inmates of institutions, particularly to adult prisoners, due principally to the increasing level and complexity of complaints and to changes in the mix of complaints over the past 12 months.

6.2.8 Detailed costings have recently been prepared within the Office of the Ombudsman to establish the level of funding needed to maintain the optimum number of visits to prisons and juvenile institutions, allowing for some joint visits and based on salary, travel and accommodation costs of visits by two investigation officers. These figures show that the total costs of this program of visits are:

	Prisons	Detention Centres
Metropolitan		
salaries	17,806.44	6,279.04
meal allowance	345.60	420.00
Non-metropolitan		
salaries	18,370.92	6,824.67
travel/accommodation	<u>17,228.46</u>	<u>3,024.00</u>
	53,751.42	16,547.71
TOTAL		70,299.13

Salary costs have been included to reflect the true cost of these visits while investigation officers are absent from the Office.

To maintain this optimum level of visits and after making allowance for requested adjustments to the Forward Estimates, in terms of the maintenance dispute, as well as allowances for the number of visits funded from within recurrent budget in 1990-91, the Office of the Ombudsman requires the additional funding of \$46,093.32.

6.3 New South Wales residents outside the Sydney Metropolitan area are also disadvantaged in terms of access to the Ombudsman, simply by reason of their geographical position. This difficulty was addressed to some extent by the provision of a 008 telephone service by the office in 1989. The primary means of overcoming such geographical isolation, however, remains a program of public awareness visits to major country areas, including Newcastle and Wollongong initiated by the former Ombudsman and extended by the present Ombudsman. The Ombudsman believes that this program is essential not merely as a means of assisting potential complainants, but as a way of addressing the need for information in the context of a general educative role.

6.3.1 Public awareness visits are arranged and co-ordinated by the public relations officer appointed by and responsible directly to the Ombudsman. Visits are usually conducted by two investigation officers, although on some occasions the Ombudsman will also visit particular country centres. To maintain the provision of an appropriate level of services, the program requires visits each month to Newcastle, every second month to Wollongong, every six months to Bathurst-Dubbo and Tamworth-Armidale and annually to Broken Hill, Nowra-Moruya-Merimbula, Albury-Wagga, Coffs Harbour-Grafton-Lismore, Taree-Port Macquarie, Inverall-Moree, Cooma and the Central Coast.

6.3.2 The Ombudsman has been able to maintain the program of public

awareness visits to Newcastle and Wollongong during 1990-91 only at considerable cost to his investigative resources. A special commitment has been made in the case of Newcastle, following the earthquake in 1989.

In contrast, the Ombudsman's officers have not been able to make any public awareness visits to country centres in 1990-91.

6.3.3 Total costs of the program, including salaries, travel, accommodation and advertising is \$30,557.75. Making allowance for visits to Newcastle and Wollongong which the Office could continue to maintain from recurrent funds (all other things being equal) the Ombudsman requires additional funding of \$21,628.31 to maintain the program at previous levels.

6.4 Residents of Aboriginal communities in country areas are also especially disadvantaged. Recognising this fact the former Ombudsman created a position of Inquiry Officer (Aboriginal Complaints). The position was not, however, filled until the present Ombudsman reclassified the position to Assistant Investigation Officer (Aboriginal Complaints) and appointed an extremely experienced Aboriginal person to liaise directly with various Aboriginal organisations and communities, especially in country areas. The position has recently been again reclassified to one of Investigation Officer (Grade 7/8), the costs of which have been met from within the Ombudsman's recurrent budget.

6.4.1 In order to personally assess the needs of members of Aboriginal communities the Ombudsman and his staff held a series of meetings in various country centres, commencing with Wagga Wagga, Narranderra and Griffith in January 1990, followed by Grafton, Taree, Kempsey and Armidate in February/March 1990 and Coffs Harbour and Lismore in March of that year.

In November 1990 the Ombudsman visited Moree and Tamworth and in January 1991 he visited Toomelah to meet with leaders of the

Aboriginal community.

6.4.2 These visits and detailed discussions with Aboriginal leaders have confirmed the Ombudsman's view that his Office must be even more active in providing information about and access to the services of his Office to meet the needs of Aboriginal persons.

6.5 Ethnic communities represent another area of special needs. All public sector organisations must recognise and respond to obvious language and cultural differences in a multi-cultural society. Members of ethnic groups have special difficulties when it comes to obtaining information about and making use of the services of the Office of the Ombudsman. Many migrants come from countries in which there are either no means of or positive disincentives against complaining about the conduct of government agencies. This is particularly the case where the conduct of police officers is involved and it is the experience of the Ombudsman that many ethnic groups are fearful of raising complaints against police. This view has been confirmed in discussions with officers of the Ethnic Affairs Commission. Following further discussions with the Commission, a survey of ethnicity of complainants is planned to commence in July 1991.

6.5.1 Over the years, positive attempts have been made to respond to these unique problems, ranging from the printing and dissemination of multi-lingual pamphlets through various ethnic organisations as well as meetings with the organisations. More recently, the Ombudsman and his officers have met with ethnic broadcasters in 1990 and participated in a Multi-Cultural Project funded by the Commonwealth Department of Administrative Services, which included several meetings with groups from the Turkish community in 1990.

6.5.2 The time devoted to these tasks by officers of the Ombudsman is part of their responsibilities in carrying out their normal duties. There are, however, specific areas where the present resources of the

Office are inadequate to meet the special needs of ethnic communities. At the most basic level, the Ombudsman does not have sufficient funds or facilities even to prepare and print up-to-date multi-lingual pamphlets - the last such pamphlets were printed in 1988-89.

- 6.5.3 S.60(1) of the Police Regulation (Allegations of Misconduct) Act imposes a statutory duty to prepare pamphlets explaining the rights and duties of members of the Police Service and the public under the Act. Ss.(2) requires these pamphlets to be written in English and such other languages as the Ombudsman considers necessary and Ss.(3) prescribes ways in which the Ombudsman shall distribute this and other information.

While information sheets are furnished to complainants at the time at which complaints are made, and to all witnesses attending S.19 Inquiries, lack of adequate financial resources means that the Ombudsman is unable to meet this statutory obligation.

- 6.6 Public authorities, particularly members of the Police Service, also need information about the role of the Ombudsman and the procedures of his Office. Since 1988 the Ombudsman has addressed numerous regional meetings of police, particularly in country areas. In addition, the Deputy Ombudsman and Assistant Ombudsman (Police) regularly lecture to police recruits and detective training courses at the Goulburn Police Academy as well as regional and country meetings of police investigators organisation by the Internal Affairs Branch. For many years the Assistant Ombudsman (Prisons) has delivered lectures at Prison Officers Training Course. The costs of all of these efforts have been met from within the Ombudsman's recurrent budget.

7 **Juvenile Justice**

- 7.1 As mentioned above, the Ombudsman is greatly concerned that young persons in institutions may not be sufficiently aware of their rights

to complain about the conduct of staff at detention centres. At the present time the Ombudsman is in the process of concluding investigations of serious allegations of assault either committed by staff of two detention centres or in respect of which staff failed to take any action. Information obtained during these investigations suggests that such assaults may be a frequent occurrence.

7.1.1 Suggestions have also been made of the need for a specialist Ombudsman to deal with the area of juvenile justice. If there is a need for such a specialist service and if the function were to be imposed on the Ombudsman, then adequate additional funding must be provided.

7.1.2 These issues were touched on by the Ombudsman when he gave evidence to the Legislative Council Standing Committee on Social Issues, relating to its Inquiry into Juvenile Justice. The Committee has yet to publish its report. In the interim, however, the Ombudsman believes that funds should be allocated to his Office to commission a survey of inmates of all detention centres to ascertain their awareness of the Office of the Ombudsman and of their right to complaint as well as ascertaining the nature and number of grievances that may exist.

8 **Conclusion**

8.1 The position may be summarised quite simply and starkly. The current and proposed funding of the Office of the Ombudsman is inadequate for the Ombudsman to maintain services to the public of New South Wales.

8.2 Unless there is an immediate increase to the recurrent budget of the Office as well as necessary supplementation for 1991-92, the Ombudsman will be forced to cut expenditure. These cuts will further drastically reduce services available to the public.

8.3 In the event that additional funds are not made available, the

Ombudsman will implement new procedures to decline complaints solely on the basis of a reduction in investigative resources. As required by both the Ombudsman Act and the Police Regulation (Allegations of Misconduct) Act, the Ombudsman will advise complainants that their complaints have been declined because of the lack of resources of the Office.

9 **Recommendations**

9.1 The Ombudsman recommends that the following additional funding be provided immediately by way of adjustment to the Office's recurrent budget for 1991-92 and forward years:

(i)	prospective budget cuts notified by Ombudsman to Treasury	\$ 86,000
(ii)	maintenance dispute/reduction in forward estimates as notified by Ombudsman to Treasury	\$190,000
(iii)	additional investigative (2) and administrative staff	\$134,000
(iv)	special inquiries	\$100,000
(v)	public awareness	
	prison visits	\$ 46,000
	detention centre visits	\$ 22,000
	printing	<u>\$ 10,000</u>
	TOTAL	\$588,000


9.1.1 The Ombudsman also recommends that the threshold requirement in respect of single occupancy tenancies be waived in respect of the Office of the Ombudsman.

9.1.2 The Ombudsman also recommends that if the rent review is determined prior to or as at 30 June 1991, a further adjustment of the recurrent budget for 1991-92 and forward years be made to cover the cost of any increase in rent.

9.2 Alternatively, if the rent review is not completed by 30 June 1991,

then the Ombudsman recommends that supplementation be provided in 1991-92 and an adjustment to the recurrent budget in forward years be made to cover the cost of any increase in rent.

- 9.2.1 The Ombudsman also recommends that, should the necessity arise, because of the closure of the FOI Unit, supplementation of \$37,000 for 1990-91 be provided for the creation of a further position of Assistant Investigation Officer (FOI).
- 9.2.2 The Ombudsman further recommends that supplementation of \$10,000 for 1990-91 be provided to commission a survey of inmates of detention centres.
- 9.3 The Ombudsman recommends that in addition to the retention in the recurrent budget of a capital works allocation of \$21,000, capital works funding of \$89,000 over 1991-92 and forward years be provided.
- 9.4 The Ombudsman recommends that immediate approval be provided to renew the contract of FOI staff currently employed.
- 9.5 Pursuant to S.32(2) of the Ombudsman Act the Ombudsman recommends that this report be made public forthwith.



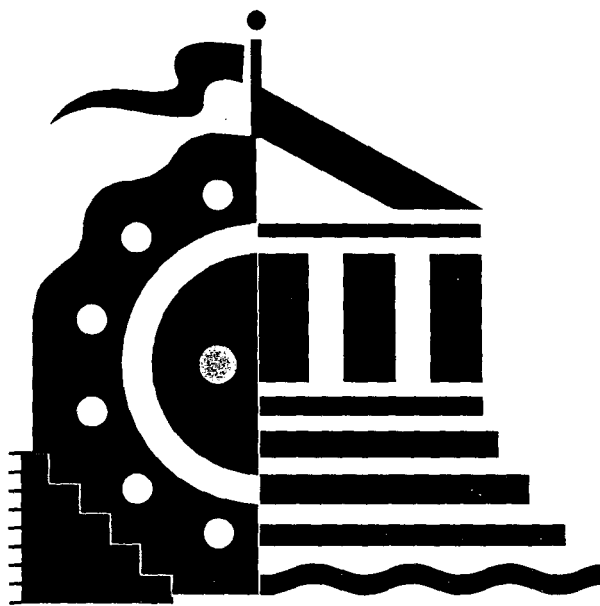
David Landa
OMBUDSMAN

Document C

**Management Review of the NSW Office of the Ombudsman
Final Report (Volume I), 16 July 1993,
KPMG Peat Marwick Consultants (Sydney)**

**MANAGEMENT REVIEW
OF THE NSW OFFICE
OF THE OMBUDSMAN**

**VOLUME I
FINAL REPORT**



VOLUME I

**NSW OFFICE OF THE
OMBUDSMAN
MANAGEMENT REVIEW**

FINAL REPORT

KPMG PEAT MARWICK MANAGEMENT CONSULTANTS
Sydney

July 1993

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APPENDICES - REFER VOLUME II

EXECUTIVE SUMMARY

The highlights of KPMG Peat Marwick Management Consultants' Management Review of the Office of the Ombudsman are as follows:

Organisational Structure (Section 2)

- The present organisational structure of the Office, particularly in relation to senior level lines of reporting and responsibility, is not conducive to a clear understanding of accountabilities and proper delegation of work.
- We recommend the introduction of two investigative teams to increase the level of specialisation in the handling of complaints. One investigative team will be responsible for the handling of complaints against police and the other for all other complaints. Each team will be headed by a Manager who will report to the appropriate Assistant Ombudsman.
- The resource requirement for the Ombudsman's Office is based on the following key three variables:
 - the number of complaints received;
 - the complaint profile; and
 - the time taken to process individual types of complaints.

Changes to any of these variables changes the number of staff as illustrated in the table below:

	Complaint Profile 1988/89	Complaint Profile 1992/93
	Total Staff Numbers	
1992/93 complaint numbers	85	67
10% increase	91	70
10% decrease	82	63
25% increase	99	75
25% decrease	74	59

(Note: This table does not reflect changes in the time taken to process individual types of complaints).

Within this total number of staff, investigative staff required represent the key change as illustrated in the following table:

	Complaint Profile 1988/89	Complaint Profile 1992/93
	Investigative Staff Numbers	
1992/93 complaint numbers	67	49
10% increase	73	52
10% decrease	64	45
25% increase	81	57
25% decrease	56	41

(Note: This table does not reflect changes in the time taken to process individual types of complaints).

- On the basis of 1992/93 complaint numbers, the 1992/93 complaint profile, the time required to process individual types of complaints and other findings of the Management Review, a total of 67 positions compared to 72 positions under the current structure (excluding 2 trainees) would be recommended.
- The title of the Senior Executive Assistant (Police) has been changed to "Special Projects Manager" to better reflect the role and functions of this position.
- The roles and functions of the two Executive Assistant (Police) positions will be absorbed within the proposed Police Team under the proposed structure.
- We recommend that the title of the Investigation Officer, Aboriginal Complaints, be changed to "Aboriginal Liaison Officer" to better reflect the role of this position.
- We recommend that a third Investigation Officer position be created in the Freedom of Information Unit, and that the Assistant Investigation Officer and dedicated Investigative Assistant positions be removed.
- The current grading of the Supervisor of the Telecommunications Interception Inspection Unit appears high and should be reviewed.
- Inquiries staff should spend a greater proportion of their time dealing with telephone inquiries, and less performing simple investigation work and other duties. This will enable a reduction in the number of inquiries staff from 4 to 3.
- All statutory officers should be allocated a full-time executive assistant.
- We believe that the number of Information Systems Officers within the Information Systems Group should be reduced from 3 to 2.
- The creation of a full-time researcher/librarian position is recommended.

Complaint Handling Procedures (Section 3)

- Current complaint handling procedures are efficient and effective and comply with legislative requirements.
- Our assessment of the time required by investigations staff to handle complaints indicates that investigation staff do not currently use their time as efficiently as possible. We believe that this can be attributed to a lack of clear accountability and inadequate performance monitoring.

Performance Measurement (Section 4)

- The Office of the Ombudsman does not use formal performance measures. We have determined a number of performance indicators and established performance measures against which future performance can be measured.

Funding (Section 5)

- A funding model has been developed which, based on the total number of complaints received, the complaint profile, the time taken to process complaints and other relevant measures, determines total personnel and funding requirements.
- Use of the funding model for various complaint number and complaint profile scenarios produces the following funding requirements (increases/decreases shown for both profiles are for complaint numbers over 1992/93 actual complaints received):

Scenario	Funding (\$000's)
1992/93 Complaint Profile:	
No increase/decrease in complaint numbers	4,216
10% increase	4,371
10% decrease	4,031
25% increase	4,592
25% decrease	3,852

(Note: This table does not reflect changes in the time taken to process individual types of complaints).

Scenario	Funding (\$000's)
1988/89 Complaint Profile:	
No increase/decrease in complaint numbers	5,116
10% increase	5,430
10% decrease	4,936
25% increase	5,871
25% decrease	4,556

(Note: This table does not reflect changes in the time taken to process individual types of complaints).

Location

- We recommend that the Office continue to be located at the current premises. Opportunities to achieve a lower rent at this or a similar location either now or at the expiry of the current lease in 1995 should be investigated.

1.0 INTRODUCTION

1.1 Terms of Reference

KPMG Peat Marwick Management Consultants (“KPMG”) was commissioned by the Joint Parliamentary Committee of the Office of the Ombudsman (“the Joint Committee”) to undertake a management review of the Office of the Ombudsman (“the Ombudsman’s Office”).

The objectives of the management review are:

- (1) to review the complaint handling and other procedures currently utilised by the Ombudsman's Office and provide advice and recommendations on whether these or alternative procedures will best enable the Ombudsman's Office to efficiently and effectively meet its statutory and other responsibilities;
- (2) to review the current staffing arrangements within the Ombudsman's Office, including duty statements and provide advice and recommendations on whether these or alternative staffing arrangements will best enable the Ombudsman's Office to efficiently and effectively meet its statutory and other responsibilities;
- (3) to review the levels of funds and other resources currently available to the Ombudsman's Office and provide advice and recommendations on whether these or alternative levels of funds and other resources are appropriate to support the procedures and staffing recommended in objectives (1) and (2) above;
- (4) to provide advice and recommendations on the performance measures that should be applied in determining the efficiency and effectiveness of the Ombudsman's Office;
- (5) to provide advice and recommendations on such other management issues as the Committee deems necessary during the course of the review, including but not limited to:
 - the use of the recommended performance measures or some alternative method in determining the level of funds and other resources to be made available annually for the operation of the Ombudsman's Office;
 - the areas of NSW from which the Ombudsman’s clients are drawn and the associated question of whether the Ombudsman's Office’s location in the Sydney CBD is the most appropriate for the servicing of those clients.

1.2 Current Role of the Ombudsman's Office

The Ombudsman's Office is constituted under the Ombudsman Act, 1974. Its operations are governed principally by that Act and the Police Regulation (Allegations of Misconduct) Act, 1978. The Ombudsman also has specific responsibilities under the Freedom of Information Act (FOI Act), the Telecommunications (Interception) (New South Wales) Act and the Independent Commission Against Corruption Act (ICAC Act).

The 1991/92 Annual Report of the Ombudsman's Office states that the mission of the Ombudsman is to:

“promote fairness, integrity and justice in public administration by reviewing the conduct of public authorities, including police, through independent, efficient investigations and reports”.

The Ombudsman's primary function is to receive and investigate complaints about matters of mal-administration and mis-conduct within the New South Wales public sector. The Ombudsman's jurisdiction encompasses:

- government departments;
- statutory authorities;
- prisons and juvenile justice institutions;
- local government; and
- police.

If the Ombudsman's Office is unable to assist complainants, staff will normally refer complainants to other State or Federal government organisations, including other State Ombudsmen, the Commonwealth Ombudsman or non-government organisations which may be able to assist. This is not a statutory requirement of the Ombudsman, but is a function performed by his Office in the public interest.

1.3 Future Expansion of the Role of the Ombudsman

1.3.1 Introduction

During our review, a number of developments were brought to our attention which may expand the responsibilities of the Ombudsman. Most of these relate to legislative developments. However, the timing and implications of these developments were not always clear.

Only those developments for which the changes to the responsibilities of the Ombudsman could be evaluated have been included in our review. Those for which the likely impact are not known have been omitted due to the level of uncertainty surrounding them. These issues are discussed below.

1.3.2 Developments Included in Management Review

The following legislative developments have been considered as part of our review.

Police Service (Complaints, Discipline and Appeals) Amendment Bill 1993

Legislation is to be introduced on 1 July 1993 in response to the passing of the Police Service (Complaints, Discipline and Appeals) Amendment Bill 1993. The impact of this new legislation on the Ombudsman's Office and the way in which it deals with complaints against police will be significant. Many of the details affecting the implementation of this new legislation are still to be determined and are subject to negotiation between the Ombudsman's Office and the NSW Police Service.

Notwithstanding, under the new legislation the Ombudsman will have the power to:

- directly investigate complaints against the police (under current legislation the Ombudsman can only "re-investigate" complaints once the police have conducted an initial investigation¹);
- 'monitor'² investigations by police;
- act as a conciliator in relation to complaints against the police, or direct that a third party act as a conciliator;
- audit police conciliation records; and
- interview witnesses (in addition to complainants and the police) during preliminary enquiries.

The ways in which the Ombudsman's Office will address these additional functions have been discussed with the Assistant Ombudsman (Police) and with other key staff involved in handling complaints against police. Recommended additions/amendments to procedures and organisation structure to reflect these changes are discussed in Sections 2 and 3.

Freedom of Information (FOI)

The number of FOI complaints received by the Ombudsman is expected to increase, potentially significantly, as a result of new legislation resulting from the Local Government (Consequential Provisions) Bill 1992. This legislation will be effective from 1 July 1993. Under the new legislation, coverage of the FOI Act will extend to include all information held by local government authorities, of which there are over 200 in New South Wales. Current legislation only extends to documents held by local government authorities which relate to personal affairs. This change will not require any amendment in current procedures but will have staffing and resource implications (refer Section 2).

¹ An exception to this is where the police have not completed an investigation within 180 days, and the Ombudsman has not approved an extension of this deadline. In this situation only the Ombudsman has the power to take over a police investigation.

² This role is yet to be defined.

1.3.3 Developments Not Included in Management Review

The following developments have not been included in our review due to the uncertainty of their timing and likely impact:

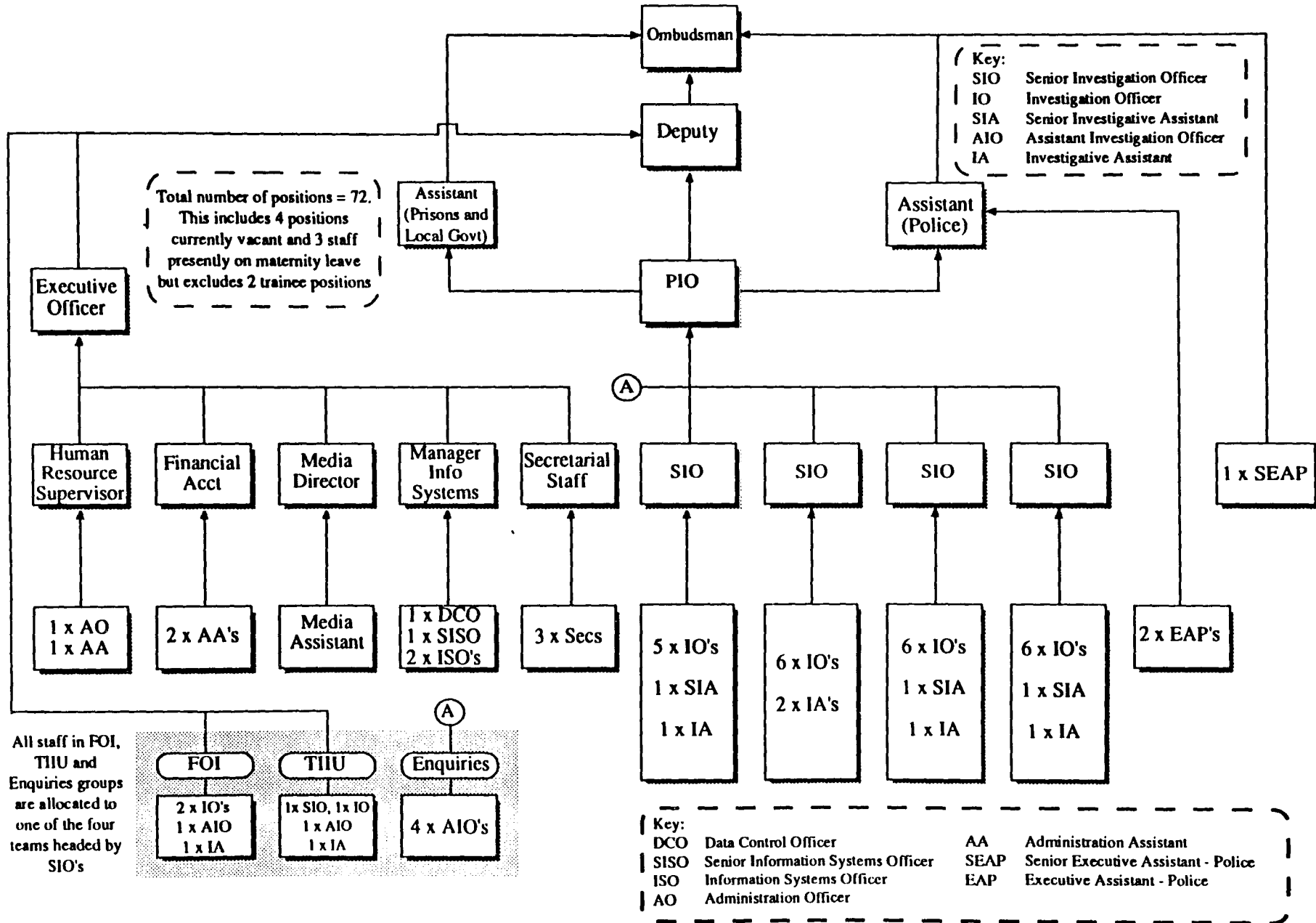
- Whistleblowers Protection Bill 1992;
- Local Government Pecuniary Interest Tribunal;
- Government Publicity Control Bill 1992; and
- Legislative Council Standing Committee on Social Issues proposal for the creation of a position in the Ombudsman's Office to be responsible for co-ordinating complaints made by young people.

1.4 Disclaimer

In accordance with normal practice, we emphasise that the findings of this report and the information contained within it are based on the sources indicated and on the best possible estimates.

This report has been prepared for the exclusive use of the Joint Committee and must not be used for any purposes other than that for which it was prepared. KPMG Peat Marwick Management Consultants assumes no responsibility to update the report for events and circumstances occurring after the date of the final report.

Current Organisation Structure



2.0 ASSESSMENT OF ORGANISATIONAL STRUCTURE

2.1 Introduction

Provided below is a brief outline of the current organisational structure of the Ombudsman's Office, and the key findings of our assessment of this structure. Based on these findings we provide below, recommendations for the future organisational structure, and estimates of the appropriate level of staffing of the Ombudsman's Office.

2.2 Current Organisational Structure

The current structure of the Ombudsman's Office is shown on the facing page.

The structure of the Office has evolved over time in response to various changes to legislation and management initiatives. These changes are reflected in the current structure in the following ways:

- the creation of the FOI Unit;
- the creation of the Telecommunications Interception Inspection Unit;
- the creation of four investigative teams by the current Ombudsman to improve the supervision of staff; and
- the creation of the Assistant Ombudsman, Prisons and Local Government (P&LG) position.

There are currently 72 positions within the Ombudsman's Office of which 68 are presently occupied (this number excludes 2 trainees and includes 3 members of staff currently on maternity leave).

We have undertaken a detailed analysis of the roles and functions of each area within the Ombudsman's Office. This has been achieved through a series of discussions with staff, together with an analysis of written submissions received from a number of staff in relation to this management review. Appendix 14 provides a list of the names of staff interviewed and staff who provided written submissions. A review was also made of relevant documentation on the Ombudsman's Office, as well as documentation available on other Ombudsmen, in order to provide background and information to assist in the management review process. Appendix 13 provides a list of documentation reviewed.

A discussion of our findings on the current organisation structure is provided below. This is followed by our recommendations for a revised structure for the Ombudsman's Office and proposed staffing numbers under this revised structure.

2.3 Findings on the Current Organisational Structure

The key roles and functions within the Office under the current organisational structure are documented in Appendix 1. The key issues identified from our review of this structure are discussed below.

Overall Comments

- The core activity of the Ombudsman's Office is complaint handling. This function is currently undertaken by four generalist investigative teams under the direction of Senior Investigation Officers, the Principal Investigation Officer and, indirectly, by the Statutory Officers. The teams comprise an unstructured mixture of specialist and generalist investigation staff.
- Under present arrangements the Assistant Ombudsman (Police) is responsible for approximately two-thirds of total complaints received by the Ombudsman's Office, while the Assistant Ombudsman (P&LG) and the Deputy Ombudsman share responsibility for the remaining complaints³. However, the Assistant Ombudsman (P&LG) and Deputy Ombudsman have additional functions which, at least in part, redress this imbalance in complaint responsibilities. Furthermore, the type of issues that the Ombudsman's Office is required to deal with in the non-police area is reported to be much wider, and is therefore more demanding on statutory officers responsible for dealing with these complaints.
- The reporting relationships with the Principal Investigation Officer create ambiguities in accountabilities and delegation of responsibility for dealing with police and non-police complaints.
- Our investigations indicated that there are issues associated with the current structure of the investigative teams, and associated reporting relationships.

Under the present structure, Investigation Officers report to Senior Investigation Officers, who in turn report to the Principal Investigation Officer. As a result of this, the Statutory Officers do not directly supervise or set priorities for Investigation Officers investigating complaints in their respective areas of responsibility. Instead, supervision is provided through the Principal Investigation Officer and the Senior Investigation Officers. As a result, informal lines of reporting and communication have developed between the investigative teams and the statutory officers, which can at times compromise the position of the Senior Investigation Officers and Principal Investigation Officer. Investigation Officers indicated that these arrangements can sometimes lead to confusion and frustration.

- Despite the establishment of a four team structure aimed at improving the supervision of investigation staff, it appears that there are inadequacies in the level of supervision of some teams. We determined two key reasons for this, namely:

³ KPMG's analysis of the time required to process police and non-police complaints (discussed in Section 3) indicates that there is not a significant difference in the average time taken to process either type of complaint. The key exception to this are re-investigations in the police area which were estimated to take considerably longer than investigations of non-police complaints.

- Senior Investigation Officers undertake an inappropriately high complaint case load; and
- members of teams are not physically located together, making effective supervision difficult.
- The current position of Investigation Officer (Aborigines) is primarily one of liaison with the Aboriginal community and dealing with Aboriginal complainants rather than one which solely handles complaints. We believe this liaison role should be better reflected in the future structure of the Ombudsman's Office.

Executive Assistants

- The direct reporting relationship of the Senior Executive Assistant (Police) to the Ombudsman no longer serves the purpose for which it was originally created, namely to assist the Assistant Ombudsman (Police) and supervise the Executive Assistants (Police). The person currently occupying this position reports that his time is primarily spent developing the "CHIPS" project which is aimed at improving complaint handling by NSW public authorities. This person is also involved in promoting methods of conciliation and mediation to deal with complaints.
- Two Executive Assistants (Police) report directly to the Assistant Ombudsman (Police). Their intended role is to develop policy in relation to complaints against the Police Service and to provide assistance to the Assistant Ombudsman (Police) as required. They are not members of the investigative teams, and investigative work is not intended to represent a large share of their workload. In reality, however, the Executive Assistants undertake a reasonably large complaint case load, specialising in more complex police related complaints, and perform only limited policy related work.

Freedom of Information Unit

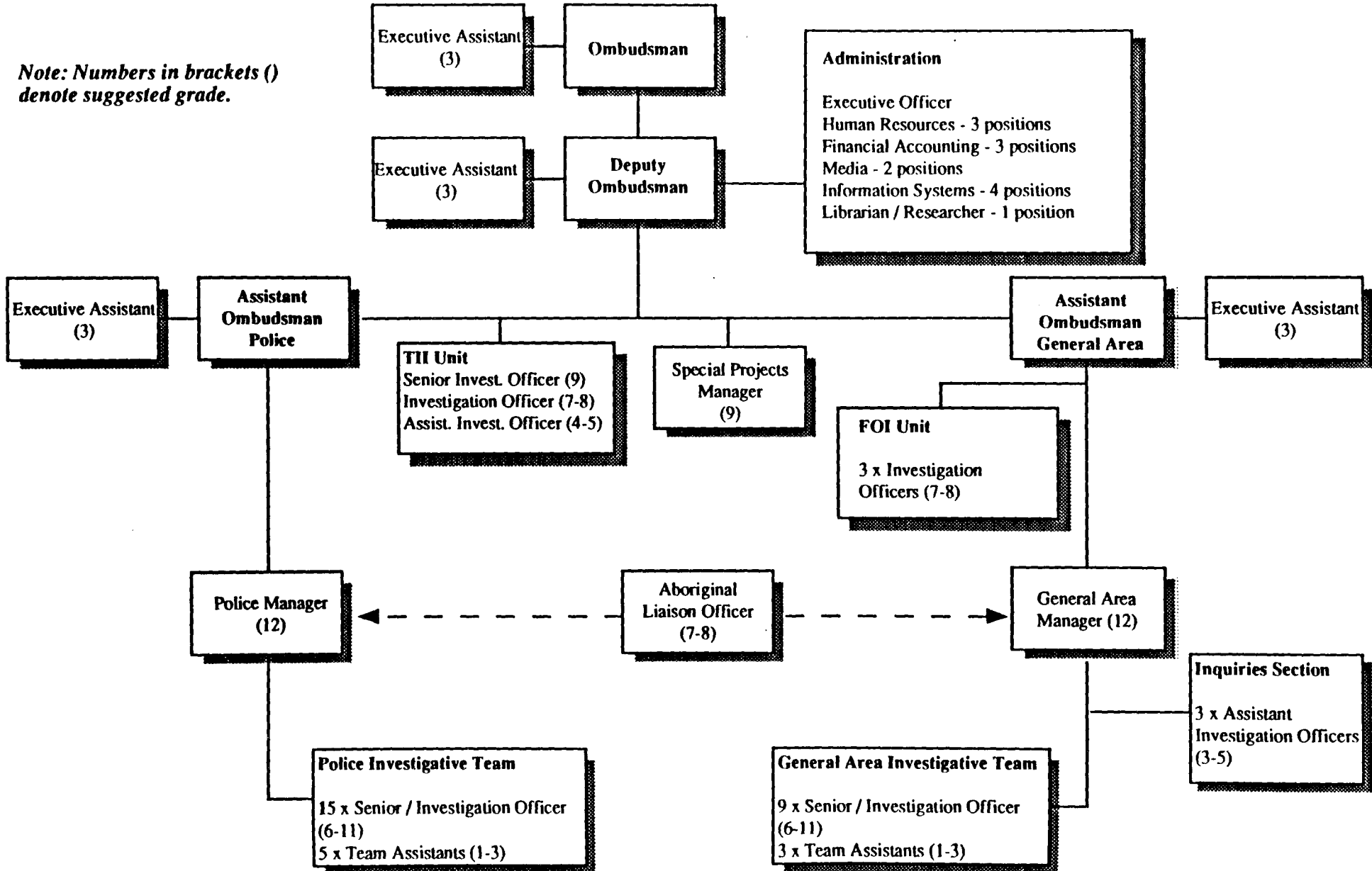
- The Assistant Investigation Officer position within the FOI Unit performs similar functions to the Investigation Officers in the Unit. Consideration should therefore be given to upgrading this position.
- The Investigative Assistant position allocated to the FOI Unit is not currently utilised by the Unit. The Unit has indicated that it does not require a dedicated Investigative Assistant.

Telecommunications Interception Inspection Unit

- The grading of the supervisor (Senior Investigative Officer, grade 9) in this relatively small, audit based unit appears high and should be reviewed.
- The Investigative Assistant is currently performing many of the key functions of the Assistant Investigation Officer. Opportunities exist to merge these two positions.

Recommended Organisation Structure

Note: Numbers in brackets () denote suggested grade.



Inquiries Section

- Inquiries staff currently spend a considerable amount of their time undertaking simple investigation duties in addition to dealing with inquiries and performing reception duties.
- The arrangement whereby Investigation Officers are rostered on a weekly basis to provide support to the Inquiries Section should not be continued. This will ensure that the inquiries officers perform the duties for which they are trained and that the Investigation Officers are not distracted from their investigation work.

Administrative Section

- The Assistant Ombudsmen share a secretary. We consider that this arrangement does not provide them with sufficient secretarial support.
- Staff numbers in the Information Systems Group are high relative to the activities performed by the Group. The Group would benefit from an increased knowledge in information technology issues.
- The maintenance of the library could be improved. This may reflect the current arrangements whereby the executive assistant to the Deputy Ombudsman is responsible for maintaining the library. It is unlikely that this person has sufficient time to ensure that the library is maintained to an appropriate standard.

2.4 Recommended Organisational Structure

The structure of the Ombudsman's Office has a significant impact upon the efficiency and effectiveness of the Office. A new structure for the Ombudsman's Office is proposed to reflect the issues identified in Section 2.3. This structure is shown on the facing page.

The new structure has taken into consideration procedural issues and the results of our assessment of resource requirements, where estimates of average times required to process complaints were made.

The roles and functions of positions within the recommended structure are provided in Appendix 2. Proposed gradings are meant to be indicative only, and should be subject to further consideration as part of the job evaluation to be performed by the Ombudsman's Office. We recommend the following key changes to the structure and the roles within the structure:

Statutory Officers

- The Ombudsman's role as leader, providing a clear direction for his Office, should be demonstrated through his taking direct responsibility for co-ordinating and driving the corporate planning process. This role should not be delegated to his subordinates.

- The Ombudsman and Deputy Ombudsman should place increased emphasis on undertaking speaking engagements and public awareness visits in order to raise the level of awareness and understanding of the Office.
- The Deputy Ombudsman's primary responsibility should be to provide support and assistance to the Ombudsman as required, with particular emphasis on policy/strategy development. We believe this will ultimately result in more efficient and effective procedures being developed for the Office.
- The Ombudsman and Deputy Ombudsman will only take a direct interest in complaints if they are of a serious and/or complex nature, or are associated with a high level of public interest or political sensitivity. They should also continue to provide advice to staff on matters which cannot be satisfactorily resolved by the Assistant Ombudsmen (e.g. interpretation of legislation).
- The Deputy Ombudsman will retain responsibility for the Telecommunications Interception Inspection Unit.

Investigative Teams

- After analysing the considerable issues surrounding specialisation and generalisation, we believe the efficiency and effectiveness of the Ombudsman's Office would benefit from a greater level of specialisation than exists within the current structure. We do not, however, advocate a move to complete specialisation.

The benefits of formal partial specialisation could be achieved through the formation of two investigative teams, one responsible for general area complaints (i.e. all complaints not relating to police), the other for handling complaints against police. For administrative purposes, 'sub-teams' could be formed within each.

To ensure that flexibility in the handling of complaints is not compromised we recommend that duty statements of team members indicate that staff may be required to assist in the handling of complaints in the other team, as necessary, while maintaining that their first priority is the handling of complaints in their designated area.

The key advantages of generalisation and specialisation considered in arriving at this recommendation are:

Generalisation:

- Provides staff with variety in their work, ultimately resulting in improved morale and greater productivity.
- The jurisdiction of the NSW Ombudsman is too wide to allow specialisation by public authority within the Ombudsman's Office.

- Allows greater flexibility in managing the complaint workload.
- Overcomes problems associated with staff becoming too close to a single public authority and thereby compromising their objectivity.

Specialisation:

- Promotes efficiency through the development of a greater level of knowledge and understanding in the handling of complaints against particular public authorities by specialist staff or teams.

(The importance of staff having a good understanding of the organisations they are investigating is highlighted in the results of the survey of public authorities discussed later.)

- Facilitates improved management and supervision of specialised areas of complaint handling.
 - Facilitates the development of policies/strategies for the handling of common types of complaints arising within a particular authority, and for the development of potential solutions for the cause of common complaints.
- Responsibility for complaints against all government departments and statutory authorities should be transferred to the newly created statutory officer position of Assistant Ombudsman, General Area Complaints (GA). Whilst it is recognised that the issues arising in the General area can be wider ranging than in the Police area, the Assistant Ombudsman (GA) will be responsible for approximately one-third of complaints and the Assistant Ombudsman (Police) for approximately two-thirds of complaints received by the Ombudsman's Office.
 - The Assistant Ombudsman (GA) will be responsible for:
 - the General Area team;
 - the Freedom of Information Unit; and
 - the Inquiries Section (reporting through a Manager position discussed below).
 - The Assistant Ombudsman (Police) will continue to be responsible for all complaints against police. The key difference will be that the Assistant Ombudsman (Police) will have a dedicated team of investigation staff to handle police complaints. This should lead to greater efficiency and effectiveness in the way the Ombudsman's Office handles complaints against police.
 - The duties of the Principal Investigation Officer are transferred to Managers assigned to each of the two investigative teams

with separate responsibility for the handling of police and general area complaints.

- The proposed structure will include a specialist position of Aboriginal Liaison Officer, who will act as a supporting resource to both the general and police teams. This is an existing position in the Ombudsman's Office, although we have changed the title from 'Investigation Officer' to 'Liaison Officer' to better reflect the role of the position. The complaint case load of this position should be minimal, and the position should focus on liaising with Aboriginal communities and complainants and promoting awareness of the Ombudsman amongst the Aboriginal community.
- We propose that Senior Investigative Assistants and Investigative Assistants be known simply as Team Assistants with a grade range of 1 to 3. Their roles will not change significantly under the new structure.

Executive Assistants

- The Senior Executive Assistant (Police) position should be retained to continue the implementation of the CHIPS project, and the conciliation and mediation initiatives aimed at improving complaint handling within the public sector. However, this position should be reviewed once the CHIPS project has been appropriately implemented. Further to this, we suggest that the position be retitled "Special Projects Manager".
- The two Executive Assistants (Police) positions will be abolished under the recommended structure and the roles and functions of these positions performed within the Police Team. The Assistant Ombudsman (Police) and Police Manager will share responsibility for developing policies for the handling of complaints in the police area, and strategies to improve the efficiency of the Police Team.

Freedom of Information Unit

- We recommend the creation of three Investigation Officer positions within the FOI Unit. These officers will have the same responsibilities as under the current structure, as well as the duties of the existing Assistant Investigation Officer in the Unit.
- No dedicated Investigative Assistant position will be provided for the FOI Unit under the new structure; support services should be provided to the Unit by the Team Assistants allocated to the General Area Team.

Telecommunications Interception Inspection Unit

- The Telecommunications Interception Inspection Unit will continue to report to the Deputy Ombudsman.
- The three current positions (i.e. Senior Investigation Officer [possibly to be regraded], Investigation Officer and Assistant

Investigation Officer) should be maintained with the objective of undertaking 3 to 4 inspections of eligible authorities per annum rather than the minimum of 2 required under the legislation. Our assessment of the average time required to undertake inspections (approximately 8 weeks) indicates that 3 investigative staff should be sufficient to achieve the target of 3 to 4 inspections of eligible authorities per annum.

- The Investigative Assistant position should be abolished, and duties transferred to the Assistant Investigation Officer. Team Assistants in the investigative teams should be available to provide support to the Telecommunications Interception Inspection Unit if required.

Inquiries Section

- Inquiries staff should spend a greater proportion of their time dealing with telephone inquiries, and less performing simple investigation work and other duties. This will enable a reduction in the number of inquiries staff from four to three. Based on current workloads (estimate of 12,244 inquiries in 1992/93), this would require each of the three inquiries staff to handle around 4,100 calls per annum, which, based on our analysis, should represent just over half of their available time.
- The inquiries team should comprise one Assistant Investigation Officer (grade 5) and two Assistant Investigation Officers (grade 3-4). The team should report to the General Area Manager.
- Reception duties should continue to be rotated on a weekly basis between inquiries staff. This will ensure that workloads are varied appropriately whilst maintaining a reasonable level of continuity of duties.

Administration Section

- We recommend the number of Information Systems Officers with the Information Systems Group be reduced from three to two. These officers are primarily responsible for:
 - receiving incoming mail;
 - distributing mail;
 - file creation;
 - deliveries; and
 - maintaining office records.

We believe that these duties can be adequately dealt with by two Information Systems Officers.

- Based on the workload of the Assistant Ombudsmen, we believe that they both require a full-time executive assistant. Accordingly, a fourth executive assistant should be employed.
- A full-time researcher/librarian should be employed to maintain an 'upgraded' library. The librarian will also be responsible for the development of information on NSW

public authorities, including annual reports, business plans and relevant legislation for use by investigation staff, as well as relevant legislative and other information. We have not determined an appropriate grading for this position.

- The Administrative Section will continue to report to the Deputy Ombudsman through the Executive Officer.

2.5 Recommended Staffing of the New Structure

2.5.1 Overall Structure

Our proposed structure comprises a total of 67 positions compared to 72 positions under the current structure (these figures exclude 2 trainees). Recommended numbers are based on current complaint loads, the current complaint profile (e.g. the proportion of complaints declined or investigated) and the time taken to process individual types of complaints. Staff numbers would need to be revised where there are changes in these variables. Section 2.5.4 and Section 5.4 discuss staffing requirements based on a number of alternative complaint number and profile scenarios.

The table below indicates the composition of the current and recommended structures and the differences between the two.

	Current No. of Positions	Future No. of Positions	Net Change
• Statutory Officers:			
Ombudsman	1	1	0
Deputy Ombudsman	1	1	0
Assistant Ombudsman (Police)	1	1	0
Assistant Ombudsman (Prisons & Local Govt)	1	0	-1
Assistant Ombudsman (General Area)	0	1	+1
Total - Statutory Officers	4	4	0
• Investigative Teams⁽¹⁾:			
Principal Investigation Officer, Grade 11-12	1	0	-1
Police Manager, Grade 12	0	1	+1
General Area Manager, Grade 12	0	1	+1
Senior Investigation Officer, Grade 9-10/ Investigative Officers, Grade 7-8	26 ⁽²⁾	24	-2
Senior/Investigative Assistants (to be renamed "Team Assistants"), Grade 1-4	8 ⁽³⁾	8	0
Total - Investigative Teams	35	34	-1
• Special Positions:			
Senior Executive Assistant (Police), Grade 9	1	0	-1
Special Projects Manager, Grade 9	0	1	+1
Executive Assistants (Police), Grade 7-8	2	0	-2
Investigation Officer, Aboriginal Complaints (to be renamed "Aboriginal Liaison Officer), Grade 7- 8	1	1	0
Total - Special Positions	4	2	-2
• FOI Unit:			
Investigation Officers, Grade 7-8	2	3	+1
Assistant Investigation Officer, Grade 4-5	1	0	-1
Investigative Assistant, Grade 1-2	1	0	-1
Total - FOI Unit	4	3	-1

	Current No. of Positions	Future No. of Positions	Net Change
• Telecommunications Interception			
<i>Inspection Unit:</i>			
Senior Investigation Officer, Grade 9	1	1	0
Investigation Officer, Grade 7-8	1	1	0
Assistant Investigation Officer, Grade 4-5	1	1	0
Investigative Assistants, Grade 1-2	1	0	-1
Total - Telecommunications Interception Inspection Unit	4	3	-1
• Inquiries Section:			
Assistant Investigation Officer, Grade 5	1	1	0
Assistant Investigation Officer, Grade 3-4	3	2	-1
Total - Inquiries Section	4	3	-1
•• Administration Section:			
Executive Officer, Grade 11-12	1	1	0
Human Resources Manager, Grade 7-8	1	1	0
Administration Officer, HR, Grade 2-3	1	1	0
Administration Assistant, HR, Grade 1-2	1	1	0
Financial Accountant, Grade 7-8	1	1	0
Administration Assistant, Accounts, Grade 1-2	2	2	0
Media Manager, Grade II	1	1	0
Media Assistant, Grade 1-2	1	1	0
Secretaries (to be renamed "Executive Assistants"), Grade 1-3	3	4	+1
Information Systems Group Manager, Grade 9-10	1	1	0
Data Control Officer, Grade 3-4	1	1	0
Senior Information Systems Officer, Grade 3-4	1	1	0
Information Systems Officer, Grade 1-2	2	1	-1
Researcher / Librarian	0	1	+1
Total - Administration Section	17	18	+1
TOTAL POSITIONS	72	67	-5

- (1) Caution should be exercised in making a direct comparison of current positions in the investigative teams to those in the proposed team structure. In the proposed investigative team Senior Investigation Officers will be dedicated to complaint handling, and Managers will not maintain a personal complaint load. This compares to the current structure where the Senior Investigation Officers and Principal Investigation Officers (now replaced by Managers) undertake a mixture of complaint handling and supervisory activities.
- (2) Excludes Investigation Officer, Aboriginal Complaints
- (3) In practice, the Investigative Assistant allocated to the FOI Unit provides support to the four current investigative teams, raising the effective number of Senior/Investigation Assistant positions to 9.

Where a reduction in staff numbers is required, this should be allowed to occur through natural attrition. It may also be necessary to recruit staff externally to fill newly created positions (e.g. researcher/librarian).

2.5.2 Staff Numbers in Investigative Teams

Methodology

In order to estimate the number of staff required in the two investigative teams an analysis was undertaken of:

- the complaint handling procedures undertaken by the Ombudsman's Office (discussed in Section 3); and
- the time required to carry out these procedures.

An overview of the steps taken in the analysis process is provided below.

The first step was to flowchart the complaint handling procedures followed. These procedures were broadly divided into two areas, namely those used for the handling of complaints against the police and those for handling general area complaints. These flowcharts were developed in consultation with key members of staff and are provided in Appendices 3 and 5 to the report.

Workshops were then held with investigative staff to determine average times required to undertake each procedural step in the complaint handling process. This analysis incorporated the time involvement of all members of staff (other than administration staff).

Output was compared with the results of a costing exercise conducted by the Office in 1992, where the time input of staff in the processing of 500 complaint files was monitored⁴. Where significant differences were identified between the time estimates resulting from our analysis and the estimates produced by the costing exercise, these were reconciled through discussions with staff and, in some cases, by averaging the two time estimates to achieve what, in our view, appeared to be a reasonable timeframe for each procedural step.

The result of this analysis was an estimate of the average time required to process complaints received by the Ombudsman's Office.

As the flowcharts indicate, once a complaint is received it can follow different paths from being declined at the outset to being the subject of a formal investigation, with a number of other outcomes in between. Complaint outcomes were broadly categorised, based on 1992/1993 projections, as:

General Area		Police Area	
Outside jurisdiction	22%	Declined at outset	40%
Declined at outset	44%	Declined after preliminary enquiry	24%
Declined after preliminary enquiry	27%	Conciliated/resolved	15%
Resolved after preliminary enquiry	6%	Police investigation	21%
Formally investigated	1%	Re-investigated	0.1%
	100%		100%
Complainant not satisfied & requests further investigation be undertaken	1%	Complainant not satisfied & requests further investigation be undertaken	1%

⁴ The sample of 500 complaint files did not suitably cover all complaint outcomes.

We will refer to the above breakdown of complaint outcomes as the 'complaint profile' indicating different complaint 'outcomes'. Information was obtained from the Information Systems Group and Assistant Ombudsmen and supplemented where necessary with information in the 1991/92 Annual Report to estimate the 1992/93 complaint profile indicated in the table above, as actual complaint profile figures for 1992/93 were not available from the Ombudsman's Office. We note that very few complaints against police are outside the Ombudsman's jurisdiction.

The next step in the process was to apply the total number of complaints received by the Ombudsman's Office in 1992/93⁵ to this complaint profile. The result was an estimate of the total number of each complaint outcome within the profile.

This information was input into our 'complaint resource model' to estimate the number of investigative staff, by police and general area, required to process the total number of complaints received by the Ombudsman's Office⁶.

Results

Based on this analysis, we calculated that a total of approximately 11,200 hours would be required by Senior Investigation Officers and Investigation Officers to process general area complaints based on the 1992/93 complaint numbers and profile. In the police area, a total of approximately 18,900 hours would be required. These calculations exclude the involvement of Statutory Officers, Team Managers and Team Assistants.

This analysis indicates that the Ombudsman's Office requires 24 dedicated investigative positions (Senior Investigation Officers and Investigation Officers) to process the current workload. We emphasize that this number excludes the 2 Team Manager positions, Statutory Officers and Team Assistants.

A direct comparison of the number of staff involved in handling complaints under the current structure and the proposed structure cannot be made. Under the present structure, 30 staff are involved in the handling of police and general area complaints (excluding Senior/Investigative Assistants). However, only 23 Investigation Officers are 'dedicated' to direct complaint handling. Other staff, comprising the Principal Investigation Officer, Senior Investigation Officers and Executive Assistants (Police), are involved in other activities such as staff supervision and management, and therefore are not 100% dedicated to the handling of complaints.

Notwithstanding the above, the total number of staff required to handle police and general area complaints, including supervisor/management responsibilities, up to but excluding the Statutory Officer positions, is lower under the proposed structure than under the current structure, at 26 compared to 30 staff, respectively. This indicates that staff in these investigation teams currently do not use their time as efficiently as possible.

We estimate that the required number of investigative assistants (hereafter referred to as 'Team Assistants')⁷ is 8 (compared to 9 in total at present, including the investigative assistant currently allocated to the FOI Unit but utilised by the investigative teams). These Team Assistants would not only provide support to the investigative teams, but also to the FOI Unit, Telecommunications Interception Inspection Unit and Aboriginal Liaison Officer as required. This number has been

⁵ Actual 1992/93 figure based on numbers supplied by Deputy Ombudsman, 14 July 1993.

⁶ In our calculations we assumed that 70% of standard working hours (i.e. a 35 hour week) are available to process complaints. This allows time for annual leave, sick leave, public holidays, general administration, etc.

⁷ Includes support for FOI Unit and additional specialist officers discussed below.

determined on a 1 Team Assistant to every 4 Senior Investigation Officers/Investigative Officers basis.

Based on the analysis of the time required to process general area complaints and police complaints, the split of investigative staff between the General Area Team and the Police Team will be:

- General Area Team 37% of staff
- Police Team 63% of staff

The requirement for 24 investigative staff is based on the following key assumptions:

- the total number of complaints received by the Ombudsman's Office in 1992/93;
- the 1992/93 complaint profile; and
- the estimated time required to process complaints determined through discussions with investigative staff.

If any of these variables change, the number of investigative staff required may also change. If, for example, the complaint profile was amended by a reduction in the proportion of complaints declined prior to preliminary enquiry or investigation, the number of investigative staff required would increase (subject to the other variables remaining constant).

2.5.3 Impact of Declines Policy on Staff Numbers

The current "Complaint Assessment/Management Policy", more commonly known as the Declines Policy, has had a direct impact upon the complaint profile, and therefore the level of resources required by the Ombudsman's Office to handle complaints. A copy of the Declines Policy is provided in Appendix 10.

The policy is a reaction to the growing number of complaints made to the Ombudsman and the finite resources available to him to deal with them. A major issue to arise from the Declines Policy is the decision to focus on complaints that identify systemic and procedural deficiencies in administration, or individual cases of serious abuse of power. The result is that the Ombudsman declines to investigate otherwise valid complaints on the grounds that they are isolated, one-off cases, or do not represent a "serious" abuse of powers. We recommend that the appropriateness of the current declines policy be reviewed.

Statistics indicating the number of complaints declined or not investigated due to insufficient resources were not available. In response to this, we discussed with the Assistant Ombudsmen the need to decline some complaints, and not to investigate other complaints following preliminary inquiry or a police investigation, due to insufficient resources. It was their view that 1988/89 was the last year in which complaints were either not declined or did not proceed to investigation as a result of a lack of resources. The comparative complaint profiles in the general and police areas in 1988/89 and 1992/93 are shown below:

General Area	88/89 %	92/93 %	Police Area	88/89 %	92/93 %
Outside Jurisdiction	18	22	Declined at Outset	42	40
Declined at Outset	35	44	Declined after Preliminary Enquiry	25	24
Declined after Preliminary Enquiry	37	27	Conciliated/Resolved	9	15
Resolved after Preliminary Enquiry	7	6	Police Investigation	23	21
Formally Investigated	3	1	Re-Investigated	<u>0.5</u>	<u>0.1</u>
	<u>100</u>	<u>100</u>		<u>100</u>	<u>100</u>
Complainant not satisfied and requests further action be taken	1	1	Complainant not satisfied and requests further action be taken	1	1

In the general complaints area, a much lower percentage of complaints were declined at the outset in 1988/89 than in 1992/93. More complaints also proceeded to preliminary enquiry and to formal investigation. A small increase in the number of investigations undertaken will have a significant impact on resource requirements due to the considerable time required to undertake an investigation.

In the police area, complaints declined at the outset were slightly lower in 1992/93 than in 1988/89. The key differences in the police area are:

- a higher number of police complaints were conciliated or resolved prior to police investigation in 1992/93 than in 1988/89; and
- a higher proportion of police complaints were re-investigated after a police investigation in 1988/89 than in 1992/93.

Re-investigations require significant resources; therefore fluctuations in the number of re-investigations have a significant impact on the resource requirements of the Ombudsman's Office.

We have used the complaint resource model to calculate the total number of investigative staff (i.e. Senior Investigation Officers and Investigation Officers) that would be required to process the same number of complaints received in 1992/93 based on the 1988/89 complaint profile.

This results in a total requirement of 39 investigative staff compared to 24 based on the 1992/93 profile.

2.5.4 Sensitivity Analysis

Using the complaint resource model, we have calculated the effect of changes in the total number of complaints received, based on the 1992/93 complaint profile and the 1988/89 complaint profiles, on staff numbers. The results are indicated in the following table:

Scenario	Invest Staff (#1)	Admin Staff (#2)	Total Staff
<u>1992/93 Complaint Profile:</u>			
1992/93 complaint numbers	49	18	67
10% increase	52	18	70
10% decrease	45	18	63
25% increase	57	18	75
25% decrease	41	18	59
<u>1988/89 Complaint Profile</u>			
1992/93 complaint numbers	67	18	85
10% increase	73	18	91
10% decrease	64	18	82
25% increase	81	18	99
25% decrease	56	18	74

(#1) Includes all non-administration staff

(#2) Assumed to remain constant (refer 5.4.2)

3.0 ASSESSMENT OF COMPLAINT HANDLING AND OTHER PROCEDURES

3.1 Introduction

Although the current structure of the Ombudsman's Office includes four general investigative teams, there are two distinct procedural areas which relate to:

- the handling of complaints against police; and
- the handling of complaints against public authorities, other than police, referred to as general area complaints.

The procedural differences are primarily the result of legislation. Investigations of general area complaints are governed by the Ombudsman Act, whilst the investigation of complaints against police are also governed by the Police Regulation (Allegations of Misconduct) Act (PRAM Act).

The efficiency and effectiveness of key procedures is discussed below.

3.2 Assessment of Common Complaint Handling Procedures

3.2.1 Introduction

We reviewed key procedures common to the handling of both police and general area complaints. Particular attention was paid to the following:

- the initial assessment of complaints by statutory officers;
- the requirement for all complaints to be submitted in writing;
- the use of preliminary enquiries prior to proceeding to formal investigation;
- conciliation initiatives; and
- the transcription of tapes from Section 19 hearings under the Ombudsman Act.

A discussion of these areas is provided below.

3.2.2 Initial Assessment of Complaints

Statutory officers and the Principal Investigation Officer currently read and assess all complaints received by the Ombudsman's Office, referred to as the 'mail'. "Birth certificates" are completed by these officers at this stage, indicating to investigation staff the appropriate course of action to be taken on complaints. For example, birth certificates will indicate, in the general area, if the complaint is outside of the Ombudsman's jurisdiction, if it should be declined at the outset, if it should go to preliminary enquiry, if it should proceed immediately to a formal investigation, etc.

In some states of Australia, the Ombudsman reads all incoming complaints and provides directions on how they should be dealt with while, in other states, incoming complaints are read by inquiries staff.

We believe that current arrangements should continue, whereby statutory officers responsible for an area of complaint are also responsible for the reading of those complaints and completion of birth certificates. This ensures that complaints are dealt with as efficiently and effectively as possible, as statutory officers have the greatest experience and knowledge to assess complaints and provide direction on the most appropriate way to deal with each complaint.

In addition, the concentration of responsibility for the assessment of incoming complaints facilitates the early detection of trends in complaints being received. This in turn enables the Ombudsman's Office to develop procedures for addressing common types of complaints. It also assists in the identification of possible solutions or recommendations for public authorities in order to overcome the problems causing complaints. All of these processes will lead to increased efficiency and effectiveness in the Office.

Based on the proposed organisational structure, all general area complaints in the future will be initially assessed by the Assistant Ombudsman (GA), and all complaints against police by the Assistant Ombudsman (Police).

3.2.3 Oral Versus Written Complaints

The Ombudsman is presently precluded from accepting oral complaints. Consideration has been given to amending current complaint handling procedures so that the Ombudsman could accept oral as well as written complaints (this is the case with the Commonwealth and New Zealand Ombudsmen).

Some of the advantages and disadvantages associated with oral complaints are:

Advantages:

- easier access to the Ombudsman for people who are illiterate or who come from a non-English speaking background;
- simplified procedures for complainants who can make complaints via the telephone and are therefore less likely to be deterred by the perceived 'red tape';
- less paper work and therefore potentially quicker response times to complaints.

Disadvantages:

- a lack of documentation. This would be a particular issue in the case of more serious or complex complaints;
- if complainants are required to submit complaints in writing they are more likely to provide a well thought out and structured argument to support the complaint which can then be assessed and used by the Ombudsman. Complaints which can not be substantiated, and which are possibly the result of a short term over action on part of the complainant, are also more likely to be avoided if complainants are required to put their complaints in writing; and
- a potential increase in complaints due to the improved accessibility of the Ombudsman.

After considering the above, we believe that the Ombudsman should continue to require complaints to be in writing.

3.2.4 Preliminary Enquiries and Conciliation

Legislation requires that certain notices be issued and procedures be followed by the Ombudsman in conducting investigations which involve the use of his formal powers. These procedures are reasonably labour intensive and time consuming. In response to this, the Ombudsman's Office has developed a system of preliminary enquiries, otherwise known as 'informal' investigations, which do not require the use of his statutory powers.

Preliminary enquiries enable the Ombudsman's Office to undertake preliminary investigations in a relatively cost effective manner before the decision to conduct a formal investigation is made. Preliminary enquiries involve making initial enquiries with complainants and the authority involved, and provide a mechanism whereby the Ombudsman can determine the merit of a complaint before committing a significant level of resources to a formal investigation.

Preliminary enquiries not only help to avoid instances where formal investigations are undertaken which are not warranted, but can lead to resolution without the need to proceed to formal investigation.

In the police area, preliminary enquiries are undertaken in accordance with Sections 51 and 52 of the PRAM Act. Notwithstanding this, Section 51 and 52 enquiries are relatively informal, and require fewer resources than police investigations or re-investigations.

The Ombudsman also encourages, and some times acts as facilitator to, the conciliation of less serious complaints. This process also provides a more cost effective form of resolution than can be achieved through formal investigation.

We consider that initiatives such as preliminary enquiries and conciliations are an appropriate mechanism by which the Ombudsman can increase the efficiency and effectiveness of complaint handling by freeing up resources which can then be used to deal with more serious or complex complaints.

3.2.5 Transcription of Tapes

During investigations by the Ombudsman's Office, staff are often required to conduct hearings under Section 19 of the Ombudsman Act. The purpose of these hearings is to gather evidence from witnesses.

Hearing proceedings are taped, and often need to be transcribed for use later. The transcribing of tapes is normally performed internally by Investigative Assistants who are not trained in this task. As a result, a considerable amount of time is required for investigate assistants to transcribe hearing tapes, and for investigative officers to then check the transcriptions. In the case of a large investigation conducted by the Ombudsman's Office recently, the transcription of tapes, including checking, was reported by the officers involved to have taken approximately 4 weeks.

The use of untrained staff in the transcription process is considered inappropriate and ineffective. An alternative solution such as the use of a specialist transcription organisation should be considered, or some staff should be trained in the effective application of this service.

3.3 Feedback from Surveys

3.3.1 Complainant Satisfaction Survey

The complainant satisfaction survey commissioned by the Ombudsman's Office raised several issues relevant to the complaint handling procedures followed by the Office. The more significant of these are as follows:

- Approximately 1 in 3 respondents indicated that they felt they were not kept regularly informed on the progress of their complaint. Further, approximately half of the respondents whose complaints were subject to formal investigation indicated that they expected extensive personal contact from the Ombudsman's Office during the investigation. This suggests that a greater level of complainant satisfaction could be achieved by ensuring that complainants are kept informed of the progress of their complaint, especially during investigations. This does not always necessitate the writing of formal letters or reports to complainants, but can often be achieved by an informal telephone call.
- Respondents provided a variety of responses when asked whether staff at the Ombudsman's Office provided information on what the Ombudsman could, could not, would and would not do for them. There appears to be a need to indicate these things more clearly to complainants. This response supports initiatives in the Ombudsman's Office to move away from standardised letters and to personalise responses to the requirements of each complainant.
- Care should be taken by investigative staff not to make promises to complainants regarding the possible outcomes of their investigations. This conclusion is drawn from the fact that 44% of respondents did not consider that the Ombudsman had met any promises made regarding their complaint.
- While it may not always be possible to shorten the length of time required by the Ombudsman (or Police) to undertake investigations, there should be closer supervision and monitoring of the duration of investigations. The establishment of timeframes for undertaking investigations should be considered by the Ombudsman's Office.
- Respondents from non-English speaking backgrounds (NESB) indicated a higher level of difficulty understanding correspondence with the Ombudsman's Office than respondents from English speaking backgrounds (24% versus 10%). People from NESB also indicated a higher incidence of their expectations not being met (54% versus 42%). As a result of these findings, we suggest that the Ombudsman investigate opportunities for making greater use of interpreter/translator services in order to improve the relative effectiveness of the Ombudsman's dealings with people from NESB.

3.3.2 Feedback from the Survey of Public Authorities

A survey of public authorities was conducted in relation to their dealings with the Ombudsman's Office (discussed in Section 9.2). A total of 35 responses were received out of a total of 65 questionnaires sent and, as such, caution should be exercised when assessing the results of the survey due to the relatively small sample size. Notwithstanding this, a number of important issues were raised in the survey which we believe warrant consideration. While several issues raised were similar to those raised in the complainant survey (and are not repeated here), a number of additional issues were raised. These are outlined below.

- Investigative staff need to develop a better understanding of the organisations they are investigating. This should be achieved through a combination of greater specialisation, as well as better research capability within the Ombudsman's Office so that better access is available to information about the organisations the Ombudsman deals with. The proposed organisational structure includes a librarian/researcher position so that this issue can be dealt with.
- Caution should be exercised by investigative staff when deciding to make inquiries through informal channels within an organisation and not through the designated contact person. We recommend that investigation staff obtain approval through their team manager before proceeding via informal channels.
- Greater use of the telephone should be made in the initial stages of an enquiry.
- A greater level of face-to-face contact with organisations subject to enquiry or investigation should be encouraged.

3.4 **Assessment of Efficiency and Effectiveness of General Area Complaint Handling Procedures (Including FOI Unit)**

The current procedures used in the handling of general area complaints (including FOI Unit) are documented in flowcharts provided in Appendix 3. We consider these procedures to be efficient and consistent with legislative requirements.

Established procedures ensure that all issues are addressed in a logical fashion and, ultimately, that general area complaints are dealt with as effectively as possible by the Ombudsman's Office.

Complaints are filtered through a process of:

- assessment by statutory officers;
- preliminary enquiries; and
- formal investigation where the result of preliminary enquiries indicates that this is warranted.

This filtering process ensures that the level of resources directed towards a complaint reflects the merit of each complaint (e.g. can it be sustained, is it trivial or is it serious).

Furthermore, initiatives to achieve resolution, often through a process of conciliation, increases the efficiency of the Ombudsman's Office in dealing with complaints.

The key procedural changes resulting from the proposed organisation structure will be:

- the Assistant Ombudsman (GA) be responsible for reading all general area mail. The assistance of the General Area Manager may be sought if necessary;
- the General Area Manager be responsible for the allocation of complaint files to investigation staff and assume all other roles and functions currently performed by the Principle Investigation Officer in relation to general area complaints; and
- general area complaints be handled by the General Area Team only (except where workload requires team flexibility).

These changes are reflected in amended procedural flowcharts provided in Appendix 4.

We note that the Ombudsman's Office does not have an up to date procedures manual. Instead, procedures are taught to staff by on the job training. The flowcharts may be used as an interim measure but a proper procedures manual should be prepared by the Ombudsman's Office in the future.

3.5 Assessment of Efficiency and Effectiveness of Current Police Complaint Handling Procedures

The current procedures used in the handling of complaints against police are documented in flowcharts provided in Appendix 5. We consider these procedures to be efficient and consistent with legislative requirements.

Established procedures ensure that all issues are addressed in a logical fashion. We also consider that, within the framework of the PRAM Act, complaints against police are dealt with as effectively as possible.

The key procedural changes resulting from the proposed organisation structure will be:

- the Police Manager will be responsible for the allocation of complaint files to investigation staff, and will assume all other roles and functions currently performed by the Principal Investigation Officer; and
- police complaints will be handled by the Police Team only (except where workload requires team flexibility).

In addition to the above, the Police Service (Complaints, Discipline and Appeals) Amendment Bill 1993, effective 1 July 1993, will impact on the way in which the Ombudsman's Office can deal with complaints against Police. Under this legislation the Ombudsmen will have the power to:

- directly investigate complaints against the police;
- 'monitor' investigations by police;
- act as a conciliator in relation to complaints against the police, or direct that a third party act as conciliator;

- audit police conciliation records; and
- interview witnesses (in addition to complainants and the police) during preliminary enquiries.

We believe that the majority of changes resulting from the legislation can be accommodated within the existing investigative functions of the recommended Police Team. However, we propose that one investigative officer be made responsible for the conciliation functions resulting from the new legislation, and be provided appropriate training in this function (including the audit role). This person should liaise with the Senior Executive Assistant in developing approaches to the conciliation of complaints.

We understand that direct investigations will be similar to the Special Inquiries already conducted by the Ombudsman's Office and will involve a significant level of Office resources. The Assistant Ombudsman (Police) and senior investigation staff should hold primary responsibility for undertaking these investigations.

Appendix 6 provides amended procedural flowcharts reflecting the additional functions resulting from the new legislation, together with the changes resulting from the new organisational structure. The adequacy of procedures and the structure of the Police Team should be reviewed within 12 months of the introduction of the new legislation.

3.6 Other Procedures

Other procedures in the office were briefly reviewed. These include procedures in the following areas:

- Telecommunication Interception Inspection Unit;
- Inquiries Section; and
- Administration Section.

We did not identify the need for any changes to these procedures.

4.0 PERFORMANCE MEASUREMENT

4.1 Introduction

Performance indicators are an essential tool for the measurement of an organisation's performance.

An organisation should determine a set of performance indicators, relevant to the activities and functions which it performs, and establish measures against which future performance can be measured. Performance both in terms of efficiency and effectiveness should be measured.

Measures of efficiency are generally associated with time and financial measurement and are generally readily quantifiable.

Effectiveness measures the quality of the outcome of procedures or functions. These measures are generally associated with assessing whether a function or task needs to be performed at all and, if so, how useful are the outcomes in assisting the organisation to meet its business objectives. Effectiveness measures are often difficult to quantify.

4.2 Current Performance Measures

There are presently no formal performance measures used by the Ombudsman's Office to measure and monitor its efficiency.

Certain statistics are presented in the Ombudsman's Annual Report under the heading 'Performance Indicators'. These include numbers of inquiries and complaints received and formal reports issued. They do not provide any indication of cases handled in relation to staff numbers or operating costs and therefore provide no meaningful measurements of comparative efficiencies.

In his Corporate Plan for 1993-1995, the Ombudsman included a number of performance measures and targets. These principally related to complaint turnaround, effectiveness measures (e.g. complainant satisfaction and awareness) and internal measures (e.g. processing of accounts, staff training). None were real measures of the efficiency of his Office. Targets set for these measures were generally in relation to improvements in performance for the year ended 30 June 1993 over the 1991/92 year.

4.3 Performance Over Time

4.3.1 Introduction

A detailed analysis of the performance of the Ombudsman's Office from 1989 to 1993 is provided in Appendix 7. These calculations are based on a number of estimates and assumptions, particularly in regard to the average number of full-time investigation staff used to determine the relative workloads of each investigation staff member over time.

As a result of the complexities involved in determining accurate average numbers of effective full-time investigation staff over the period (due to staff turnover, positions

remaining unfilled at certain times during the year and the fact that not all investigation staff would have had full investigation workload responsibilities at all times), average numbers shown have been based on estimates only and are not intended to provide an accurate record of past average complaint handling numbers. However, although conclusions should not be reached from these numbers as far as relative complaint handling efficiencies are concerned, we believe that the numbers shown do provide a reasonable indication of complaint trends over the period under review.

A discussion of the key findings follows.

4.3.2 Recurrent Funding

	1988/89	1989/90	1990/91	1991/92	1992/93
Recurrent Funding	3,431	3,608	3,760	4,056	4,114
Annual Increase	n/a	5.2%	4.2%	7.8%	1.4%

The above figures are after adjustment for a number of 'one-off' and other items (refer Appendix 7 for details). Taking into account CPI fluctuations, the level of recurrent funding has remained consistent in real terms during the period.

4.3.3 Complaints Received

	1988/89	1989/90	1990/91	1991/92	1992/93
Total Complaints Received	4,499	4,791	5,915	5,915	6,443
Per Investigation Officer	145	160	191	197	222

The total number of complaints received has risen by 43% between 1989 and 1993. The increase in complaints against the NSW Police is the major contributor to this increase, accounting for 1,777 of the total increase of 1,944 complaints (more than 90%) over the period under review.

4.3.4 Complaints Finalised

	1988/89	1989/90	1990/91	1991/92	1992/93
Total Complaints Finalised	4,144	4,230	4,810	5,944	5,754
Per Investigation Officer	134	141	155	198	198

The number of complaints finalised has increased significantly over the period, increasing by 39% between 1989 and 1993. On average, each Investigation Officer dealt with almost 50% more complaints in 1992/93 than in 1988/89.

The major factor influencing the increase in the number of complaints finalised, both in total and by investigation officer, has been the increase in complaints declined during the period.

4.3.5 Investigations Performed

	1988/89	1989/90	1990/91	1991/92	1992/93
Investigations Performed	106	98	59	81	38
Per Investigation Officer	3.4	3.3	1.9	2.7	1.3

The number of formal investigations conducted by the Ombudsman's Office has decreased significantly over the period. This is a result of the continuing increase in complaints received and finalised and the consequent effect of this on the resources available to conduct investigations.

4.3.6 Complaints Declined

	1988/89	1989/90	1990/91	1991/92	1992/93
Total Declined	2,981	3,150	3,587	4,181	3,932
% of Complaints Finalised	71.9%	74.5%	74.6%	70.3%	68.3%
Per Investigation Officer	96	105	116	139	136

The increasing trend in complaints declined between 1989 and 1991 resulted from the continuing increase in the number of complaints received and the influence of the declines policy over the period. However, there has been an improvement in the situation in 1992 and 1993, with the number of complaints declined down in comparison to total numbers finalised. This has resulted from an increased effort to resolve more claims by the Ombudsman. The average cost of resolving a complaint is often not much higher than declining one. Accordingly, the increase in complaints resolved has not affected the Office's ability to finalise more complaints in total.

4.3.7 Cost Per Employee and per Complaint

	1988/89	1989/90	1990/91	1991/92	1992/93
Total Expenditure	47,100	55,500	58,600	60,200	61,500
Salary Related	31,700	39,100	42,200	46,500	46,300
Other Expenditure	15,400	16,400	16,400	13,700	15,200
Cost per Complaint	796	919	889	749	770

The relatively significant increase in average costs from 1988/89 to 1989/90 results from distortions in the average because the Freedom of Information Unit was established part way through 1988/89. The staff numbers at year end include the FOI Unit employees while only a part of the annual salaries were incurred in that year.

After excluding this factor, there have been no significant increases in average costs during the period. Increases have been principally a result of CPI and Award increases. No award increases have been received during 1992/93.

The average cost per complaint is driven by the mix of complaint outcomes which varies from year to year and direct comparison is therefore not meaningful. The general downward trend in the average cost per complaint has arisen principally as a result of the decreasing number of investigations and increasing numbers of complaints declined or resolved.

4.4 **Comparison of Performance with Other Ombudsman's Offices**

The performance of the NSW Ombudsman's Office was compared to the other State Ombudsmen and the Commonwealth Ombudsman.

The comparison was based on information contained in the 1991/92 annual reports for each of these organisations, and is provided in Appendix 8.

However, in our opinion, no meaningful analysis can occur because:

- The jurisdictions of the offices vary dramatically, especially in relation to police complaints.
- The term “complaint” is used differently by various offices.
- In some states complaints must be received in writing while in others they can be received orally.
- The way offices are funded varies. For example, rental costs are separately funded in some states.

4.5 Comparison with Independent Commission Against Corruption

A comparison of the cost structures of the Ombudsman’s Office and ICAC has also been performed. The Ombudsman has, in the past, made such comparisons, saying that ICAC benefited from significantly higher funding than his office, thus providing justification for additional funding for his own office.

It is not appropriate, in our opinion, for the Ombudsman to make a funding comparison with ICAC to justify an increase in funding for his own purposes because the cost structures of the two organisations are significantly different.

4.6 Proposed Efficiency Performance Measures

4.6.1 Introduction

The key efficiency performance indicators which should be used by the Office to measure performance over time and which may be used to determine funding requirements are:

- average number of complaints finalised per Investigation Officer;
- level of non-employee and rent related expenditure;
- complaints declined as a percentage of complaints finalised;
- average office area per employee; and
- complaint turnaround.

These indicators are discussed in the sections that follow and a performance measure is provided as a basis for determining funding requirements. However, it should be appreciated that a performance measure should not remain static. Rather, it should be adjusted to reflect further opportunities for performance improvement. In this way, the measure can be used to both drive increased performance and provide an indication of funding levels.

4.6.2 Average Number of Complaints Finalised per Investigation Officer

A significant indicator of the efficiency of the Ombudsman’s office is the Average Number of Complaints Processed per Investigation Officer.

The performance measures for the number of complaints to be processed by each investigation officer have been determined separately for the Police and General

complaint areas based on our complaint resource model. These were determined from the incorporation of time estimates provided by staff into the model.

These performance measures are as follows:

Police Complaints	267 per annum
General Complaints	271 per annum

These numbers represent the number of complaints of all outcomes that each senior investigation officer and investigation officer in the team should, on average, finalise in a year.

These performance measures were determined based on the 1992/93 mix of complaint outcomes for Police and General complaints (refer Section 2.5).

Previously, no separate specialised Police and General team structures existed. Accordingly, separate measures of past comparative performance are not available for Police and General area complaints separately. A comparison of the relative trend in the average number of complaints processed by each investigation officer (Police and General complaints combined) between 1988/89 and 1992/93 has been provided in Section 4.3.3.

The above performance measures represent an average target per member for each investigative team (i.e. Police and General). These measures are average targets for each team as a whole and are not necessarily targets for individual investigative officers. Investigative staff requirements have been based on the performance of different types of complaints and levels of complaints processed by each member of the teams based on their level and experience (i.e. junior investigation officers will be responsible for more routine complaints while senior investigation officers will conduct more complex cases, including investigations).

Accordingly, it was not practical to set different performance measures for each individual within the teams as it is unlikely that each member of a team's complaint workload will be similar in mix to that projected in total. The Ombudsman may, however, wish to set individual targets within the overall parameters based on seniority and experience against which an individual's performance can be assessed.

A significant change in the complaint profile from that projected for 1992/93 would result in the need for these performance measures to be revised (refer Section 6.3).

4.6.3 Level of Non-Employee and Rent Related Expenditure

We have determined the measure for the level of non-employee and rent related expenditure to be 12%, expressed as a percentage of total employee and rent related expenditure. This percentage is based on the 1992/93 ratio.

	1989	1990	1991	1992	1993	Performance Measure
Level of Non-Employee/ Rent Related Expenditure	25%	19%	18%	10%	12%	12%

Total employee and rent related expenditure includes all salary and salary related expenditure (including all provisions, whether funded or not), and rent. Non-employee and rent related expenditure includes all other working and maintenance expenditure items other than depreciation. The 1993 ratio has been determined from 1992/93 projected final expenditure.

We believe that such expenditure can be maintained at this level in the future and, accordingly, that 12% is an appropriate measure.

4.6.4 Complaints Declined as a Percentage of Complaints Finalised

We have determined the performance measure for the total level of complaints declined as a percentage of complaints finalised as 68%. This is based on the 1992/93 complaint outcome mix which has been used for the determination of the performance measures set out in 4.6.2 above.

	1989	1990	1991	1992	1993	Performance Measure
Percentage Declined	71.9%	74.5%	74.6%	70.3%	68.3%	68.0%

Details supporting these figures are provided in Appendix 7. Our recommendations throughout this report are based on the assumption that complaints continue to be processed in accordance with the 1992/93 complaint profile and the measure of 68% is based on this profile. However, should the complaint profile change significantly in the future, this performance measure would need to be reconsidered and revised.

A change in the complaint profile will change the performance measures set out in 4.6.2. The complaint resource model will determine the revised measures arising from any change in the profile.

4.6.5 Office Area per Employee

We have determined the measure for the average area of office space required per employee to be 18 square metres.

	1989	1990	1991	1992	1993	Performance Measure
Average Office Space per employee (square metres)	20.6	20.6	19.7	19.5	20.0	18.0

The Ombudsman is committed to the lease for his office in the Coopers & Lybrand Building until March 1995 and will not be in a position to move into alternative accommodation, if required, until that time. Accordingly, the actual average space per employee will be dependent on the total number of staff until then.

A detailed discussion supporting office space requirements is attached as Appendix 11. Office area per employee has been determined based on total approved establishment staff levels at each year end. The measure of 18 square metres per employee is based on the fact that, generally, office space requirements vary from about 12 square metres to 18 square metres between organisations. Based on total approved establishment staff levels at the time of our review, each staff member currently occupies, on average, 20 square metres of office space.

4.6.6 Complaint Turnaround

Based on our detailed review and documentation of complaint handling procedures, we believe the following key turnaround times are appropriate:

Output	Target Turnaround Time
Response to Initial Complainant Correspondence	7 days from receipt
Complaint Declined at Outset/Outside Jurisdiction	7 days from receipt
Initiation of Preliminary Enquiries	7 days from receipt
Completion of Parliamentary Report	28 days from completion of Investigation
Response to Section 24 Report	2 months from receipt of report

We have not included turnaround times for the completion of preliminary enquiries or investigations due to the level of variation that occurs between them reflecting the various levels of complexity.

We acknowledge that there will be instances where matters outside the Ombudsman's control mean that target turnaround times can not be achieved. Allowing for these cases, we believe that the Ombudsman's Office should aim to handle 90% of all complaints within these timeframes.

Records of complaint turnaround times should be kept on the birth certificates. One member of staff should be assigned responsibility for maintaining a formal record of actual turnaround times achieved and monitoring the office's performance against targets.

4.6.7 Monitoring of Performance

Performance against targets should be monitored on at least a quarterly basis. In addition, performance against performance measures should be reviewed annually, on an independent basis, by either the internal or external auditors of the Ombudsman's Office.

Complaint numbers in total, by complaint outcome, should also be monitored against the projected complaint profile. A significant variation in the profile will have a direct impact on the number of complaints that each team is able to process. The complaint model will determine revised targets where a significant change in complaint profile is anticipated.

4.7 **Proposed Effectiveness Performance Measures**

4.7.1 Introduction

Effectiveness measures the quality of the outcome of procedures or functions. These measures are generally associated with assessing whether a function or task needs to be performed at all and, if so, how useful are the outcomes in assisting the organisation to meet its business objectives.

Establishing effectiveness measures for the Ombudsman's Office is a difficult task. Not only is it difficult to quantify the effectiveness of the Ombudsman's work, but it is also difficult to define what effectiveness actually is. Possible definitions of effectiveness for the Ombudsman's Office could include:

- the degree of implementation of the Ombudsman's recommendations by public authorities. This reflects the fact that if none of the Ombudsman's recommendations are implemented he will be regarded as a 'toothless tiger' and will

not bring about improvements in areas of mal-administration or misconduct;

- the proportion of complaints declined at the outset or not investigated. For example, if all complaints are declined at the outset the Ombudsman's Office could not be said to be effective;
- the level of awareness of the Ombudsman across the community, and especially amongst disadvantaged and minority groups. This reflects the fact that if people do not know of the Ombudsman he can not perform his role effectively; and
- the degree of satisfaction of complainants and public authorities. If no one is satisfied with the Ombudsman, then it could be said that he is not effectively carrying out his role. Naturally, the level of satisfaction would need to be interpreted with care as many complainants and public authorities will indicate dissatisfaction where findings have not been in their favour.

Notwithstanding the difficulties associated with measuring effectiveness, we believe that some measures can be used as 'management tools' to monitor areas of effectiveness of the Ombudsman's Office. We stress, however, that no measure will be black and white, and should be interpreted with care. The numbers and reasons behind effectiveness measures should be carefully analysed over time (e.g. why have our recommendations not been implemented yet or why are public authorities less satisfied this year than last) by management and used as indicators of issues that may need to be addressed. Effectiveness measures should be reviewed at least annually.

Our recommendations for effectiveness measures are discussed below.

4.7.2 Implementation of Ombudsman's Recommendations

The extent to which the Ombudsman's recommendations are acted on provides a good indication of his effectiveness. The implementation of his recommendations, fully and partly, should be formally monitored to determine his effectiveness from this perspective.

4.7.3 Complaint Outcome Mix

The mix of complaint outcomes will provide some indication of the effectiveness of the Ombudsman's Office i.e. a decrease in the number of complaints declined with more complaints resolved or investigated would mean an increase in the effectiveness of the Office.

The Ombudsman's Office should continue to monitor the mix of complaint outcomes to provide an indication of effectiveness from this perspective.

4.7.4 Public Awareness

The level of public awareness of the Ombudsman is another measure by which effectiveness may be measured. A recent awareness survey was performed Australia-wide by the Commonwealth Ombudsman.

The Ombudsman should monitor the results of these surveys, when performed, paying particular regard to demographic patterns arising from studies to determine which areas he should concentrate future effort in conducting public awareness visits.

The level of public awareness can also be measured, to some extent, by trends in the number of complaints received from year to year from different sources. These trends should be monitored as part of the Ombudsman's normal complaint recording procedures.

4.7.5 Complainant Satisfaction

This is not readily quantifiable and can only be assessed through complainant feedback. Accordingly, formal surveys should be carried out by the Ombudsman's Office on a regular basis to monitor complainant satisfaction.

4.7.6 Public Authority Satisfaction

Again, this is not readily quantifiable and can only be assessed through feedback from the public departments and authorities within the Ombudsman's jurisdiction.

As part of our review, we conducted a formal survey of departments and authorities. A similar survey could be conducted on an annual basis.

5.0 APPROPRIATENESS OF FUNDING

5.1 Introduction

In this section we examine the current method of funding of the Ombudsman's office and propose a future funding model.

5.2 Current Method of Funding

Forward estimates were prepared for the Ombudsman's Office for the 1993/94 to 1995/96 financial years in January 1993. These were prepared based on the amount of recurrent funding allocated to the Ombudsman's Office for each year by NSW Treasury. This is currently reduced on an annual basis in accordance with the 'Productivity Dividend' - a 1.5% reduction in total expenditure each year. Forward estimates have been prepared in 1992/93 dollars. Recurrent allocations will be adjusted by Treasury for CPI fluctuation at the appropriate time.

From time to time, the Ombudsman will make a formal application to the NSW Treasury for additional funding in excess of his recurrent allocation. These applications may be for one of the following:

- enhancement funding;
- special project funding; or
- maintenance dispute.

5.3 Future Funding Model

5.3.1 Overview

An overview of the funding model is provided in this section. A detailed model which can be used to determine the level of funding is provided as Appendix 9.

The model calculates total funding based on the following variables:

Total Funding
=
Investigation Staff Salaries
+
Administration Staff Salaries
+
Funded Salary Related Expenses
+
Rent
+
Other Working & Maintenance Expenses
+
Protected Items

The input required for each of these items and assumptions made are detailed below. We have completed the model using the performance measures and assumptions

determined in our report to calculate the level of funding required based on these, as well as using a number of alternative scenarios (Section 5.4).

5.3.2 Investigation Staff Salaries

The total salary cost of investigation staff is dependent on the following criteria:

- projected annual Police and General complaint numbers, FOI complaints and inquiries;
- projected annual complaint and inquiry productivity targets for Police, General and FOI Investigation Officers and inquiries staff;
- average salaries by level.

In determining future funding requirements, the following assumptions have been used:

- There is approximately a 1:3 Senior Investigation Officer to Investigation Officer ratio. This ratio may vary under our team structure recommendations which allow more for career progression within teams and are not restrictive as far as the number of Senior Investigation Officers is concerned.
- One Team Assistant is required for every four Investigation Officers (i.e. Senior Investigation Officers and Investigation Officers), including those working in the FOI, TIU and specialist areas.
- Numbers of complaints and inquiries and targets per Investigation Officer (senior investigation officers and investigation officers but not complaint managers) or Inquiry Clerk are as follows:

	Police Complaints	General Complaints	FOI Complaints	Inquiries
Complaints per Annum	4,008	2,435	90	12,000
Target Per Officer	267	271	30	4,000

- Complaint and inquiry numbers are based on 1992/93 projections.
- Average salaries have been determined for each level of investigation staff based on 1993/94 estimates.

5.3.3 Administration Staff Salaries

We have assessed what we believe to be the appropriate number and mix of administration staff based on the 1992/93 operations of the Ombudsman’s Office. Although the majority of administration staff positions will not vary directly with the number of investigation staff, there may be a requirement for a change in administration staff where a significant change in investigation activities is proposed.

The total salary cost of administration staff is dependent on the following criteria:

- number of administration staff; and
- salary cost per employee.

In determining future funding requirements, the following assumptions have been used:

- Total administration staff numbers have been included in the model at 18, based on our assessment of the administration area requirements.
- Average salaries have been determined for each level of administration staff based on 1993/94 estimates.

5.3.4 Funded Salary Related Expenses

Salary related expenses directly funded by Treasury are included in the model. These are:

- payroll tax;
- annual leave;
- annual leave loading;
- allowances;
- overtime;
- meals;
- workers compensation insurance; and
- fringe benefits tax.

These amounts will vary with salary costs.

In determining future funding requirements, the following assumptions have been used:

- Payroll Tax is calculated at 7% of total salaries in excess of the \$500,000 threshold.
- Estimates for other items have been based on 1992/93 projected expenditure.

5.3.5 Rent

Rental expense is determined by the following:

- average office area per employee; and
- projected rental cost per square metre.

In determining rental expense, it should be noted that the Ombudsman is currently constrained within his present space availability in the Coopers & Lybrand building under lease agreement. Accordingly, although the model may indicate that lower space requirements are appropriate, the minimum rent payable will be the amount to which the Ombudsman is committed under his present lease until its expiry in March 1995.

In determining future funding requirements, the following assumptions have been used:

- Average office space required per employee has been estimated at 18 square metres.
- Average rent per square metre per annum has been estimated at \$407 (this is based on 1992/93 actual rent - no allowance for any increase has been

included as the Ombudsman is currently challenging a 4% increase proposed by the landlord).

Despite the above assumptions, total rent is included in the model at its present amount where total space requirements are below the space currently occupied as the Ombudsman is committed to the current lease until March 1995.

5.3.6 Other Working and Maintenance Expenses

In 1992/93, the budget for other working and maintenance expenses totalled approximately \$450,000 or 12% of other expenditure (salaries, related expenses and rent). Based on our review of 1992/93 actual performance against budget, we believe that other working and maintenance expenses can be maintained at 1992/93 levels.

In determining future funding requirements, the following assumption has been used:

- Other working and maintenance expenses have been maintained at the 1992/93 level of 12% of total other expenditure.

5.3.7 Protected Items

An amount should be set aside to cover special investigations and be included in the Ombudsman's expenditure budget as a protected item.

It is often hard to estimate how many special investigations will occur in a given year but the impact on resource and funding requirements is significant.

The Ombudsman's Office should annually prepare a submission for protected funds based on expected levels of special investigations and average historical cost per investigation.

Funds allocated as protected items must not be used for any purpose other than those for which they were intended. Expenditure requirements in excess of the amount set aside for protected items must be applied for separately.

If protected funds are not used specifically for the purpose for which they are set aside, any balance will either be returned to Treasury at year end or deducted from the following year's protected item allocation. At year end, the Ombudsman should submit to Treasury formal reports of expenditure incurred within his protected item budget as justification for amounts utilised during the year.

In determining future funding requirements, the following assumption has been used:

- An estimate of \$150,000 for protected items has been included.

This is based on the performance of one or two investigations of a prisons inquiry/Angus Rigg nature and an allowance for other special items such as award increases. Due to the uncertainties involved in projecting the nature and size of forthcoming investigations, it is not practical to provide detailed costings to support this amount. It is up to the Ombudsman to provide detailed annual submissions supporting the amount for which he is applying for a particular year.

We have not included an estimate in the model for the cost of additional functions required as a result of the Police Service (Complaints, Discipline and Appeals) Amendment Bill 1993.

5.3.8 Other Major Assumptions

The other major assumptions are that the following items are excluded from funding:

Superannuation and Long Service Leave

The liabilities for these provisions are assumed by NSW Treasury. Accordingly, amounts set aside to these provisions during the year are not funded by Treasury. Estimates for these amounts have been included in the model to provide an indication of total operating expenditure, however, they are excluded for the purposes of determining required funding.

Capital Expenditure

Funding for capital expenditure has not been included in recommended funding. Formal applications for capital expenditure should be made by the Ombudsman to NSW Treasury for consideration at the time such expenditure is proposed.

There are presently no major capital expenditure projects under consideration by the Ombudsman, apart from equipment requirements (e.g. mobile phones, motor vehicle), resulting from the Ombudsman's new role under the legislation affecting the investigation of complaints against the police.

Projects Conducted by Special Request

From time to time, the Ombudsman may be requested by the NSW Government to conduct special projects above and beyond his normal statutory duties and responsibilities and which are not classified as special investigations for inclusion under 'protected items' funding.

We have not attempted to include any estimate of the resources and funding required for such projects in the funding model as a result of the uncertainties involved. When the Ombudsman is requested to perform special projects by the NSW Government, formal cost estimates should be submitted to NSW Treasury in support of his claim for additional project funding.

Legislative Changes

Unforeseen amendments to legislation may result in changes to the Ombudsman's jurisdictional levels. Should such amendments arise, consideration of the requirement for additional resources and funding will be required at the time, and formal application made to NSW Treasury for additional funding.

Other than the introduction of the Police Service (Complaints, Discipline and Appeals) Amendment Bill 1993, we are not aware of any proposed legislative amendments which may have an effect on the Ombudsman's functions and responsibilities.

5.4 Funding Requirements

5.4.1 Application of Funding Model

Using the funding model, we have calculated funding requirements based on a number of complaint profiles and complaint number scenarios. Each scenario is based on either the 1988/89 or 1992/93 complaint profile (refer Section 6.3). Projected complaint numbers have been adjusted from 1992/93 numbers to reflect increases or decreases in numbers. For example, an increase in complaints received may result from the Whistleblowers Protection Bill.

The funding model's output for each of these scenarios is attached as Appendix 15. Results are summarised below:

Scenario	Invest Staff	Admin Staff (#1)	Total Staff	Funding (\$000's)
<u>1992/93 Complaint Profile:</u>				
No increase/decrease (#2)	49	18	67	4,216
10% increase	52	18	70	4,371
10% decrease	45	18	63	4,031
25% increase	57	18	75	4,592
25% decrease	41	18	59	3,852
<u>1988/89 Complaint Profile</u>				
No increase/decrease	67	18	85	5,116
10% increase	73	18	91	5,430
10% decrease	64	18	82	4,936
25% increase	81	18	99	5,871
25% decrease	56	18	74	4,556

(#1) Assumed to remain constant (refer Section 5.4.2).

(#2) This level of funding is calculated by inputting into the funding model the measures set out in Section 5.3, and the recommendations contained throughout the report. This compares with an amount of \$4,192,000 presently allocated by NSW Treasury for the 1993/94 year.

5.4.2 Assumptions

In arriving at the levels of funding shown in the table above, the following assumptions have been made:

Productivity Targets

Complaint handling performance measures based on the 1992/93 complaint profile are 267 and 271 for police and general areas respectively (refer Section 4.6.2). Performance measures based on the 1988/89 complaint profile are 160 for the police area and 174 for the general area. These numbers were determined using the complaint resource model.

Increase/Decrease in Complaint Numbers

Percentage increases or decreases shown have been applied to police and general complaint numbers and inquiries. FOI, TIIU and other specialist nature activities, which comprise only a small part of the Ombudsman's activities, have not been changed.

Statutory Officers

The number of statutory officers has been left unchanged at four at all levels of complaint activity.

Administration Staff

The total number of administration staff has remained unchanged at the recommended number of 18 for all levels of complaint activity. The majority of administration staff are of a 'fixed' nature and their numbers cannot be expected to vary directly with the total number of complaints processed by the Office. We do not believe there is any real scope for a reduction or increase in the number of administration staff within the 25% complaint increase/decrease parameters. However, administration staff levels would need to be reconsidered where there was a variation in complaint activity beyond 25%.

Salary Related Expenditure

A significant proportion of funded salary related expenditure relates to payroll tax. This varies directly with total direct salary costs in the funding model. Other funded items of salary related expenditure are not significant and have been left constant for all funding scenarios shown.

Rent

As stated previously, the Ombudsman is committed under his current lease to remain in the Coopers & Lybrand building until March 1995 (although there may be scope for him to negotiate a more favourable rate now if he agrees to extend the lease beyond this date). Accordingly, where the model produces total floor space requirements less than those presently occupied (i.e. based on staff requirements), total rent is calculated based on the total amount of space which the Ombudsman currently occupies.

Where total requirements exceed available space, rent is calculated based on total floor space required. This makes the assumption that additional office space is readily available at similar rates. Current average rent of \$407 per square metre has been used in the model under all scenarios. Car park rental has been estimated based on 1992/93 expenditure.

Other Working & Maintenance Expenses

These have been calculated at 12% of other expenses under all scenarios.

Protected Items

An estimate of \$150,000 has been included for Protected Items under all scenarios.

Non-funded Items

Estimates for non-funded items have been included in the model to provide an indication of total expenditure for the operation of the Ombudsman's Office (i.e. superannuation, long service leave and depreciation). For the purposes of the model, superannuation has been estimated at 10% of total base salaries, in line with 1992/93. Depreciation of \$161,000 included in the model is the estimate for 1993/94 prepared by the Ombudsman's Office, while long service leave is based on 1992/93. These items have been included for example only and have no effect on the amount of required funding.

6.0 OTHER MANAGEMENT ISSUES

6.1 Introduction

Other management issues which can impact on the efficiency and effectiveness of an organisation are considered in this section. These are:

- Planning Process;
- Internal Communication;
- Public Awareness Strategy;
- Information Technology Issues;
- Management and Reporting; and
- Special Inquiries.

6.2 Planning Process

Interviews with staff indicated that there is a general feeling of uncertainty amongst staff about the direction in which the Ombudsman's Office is heading. Further, the responsibility for policy setting and the decision making process were not generally understood.

We believe there is a need for more visible leadership and direction from the management team in the planning process in the future. We recommend that the Ombudsman take responsibility for the co-ordination of the corporate plan, and encourage support and ownership of the corporate plan from all members of staff and management.

6.3 Internal Communication

Discussions with staff indicated that there are shortcomings in the existing internal communications system between management and staff, as well as within the management team.

Many staff indicated that they were not receiving sufficient information regarding planning and policy issues, and were not being informed of important decisions made by management. This is despite regular meetings of staff with Senior Investigation Officers, and Senior Investigation Officers with senior management.

The following actions should be taken to ensure that internal communications are more effective in the future:

- decisions made during management meetings should be made final and not be overturned unless done through the weekly management meetings or, if time does not permit, through consultation with all members of the management team. Official minutes should be kept to record management meetings, including action plans in relation to decisions made during these meetings;
- the management team should use the weekly management meeting to present a stronger and more cohesive future direction for the Office; and

- senior management should brief all staff on decisions and actions during weekly team meetings, and through the monthly staff meetings. Communication of these matters to staff who are not members of investigative teams should be the responsibility of their supervisors. A memorandum should also be provided to staff based on the minutes of the management meeting which sets out relevant policy and planning matters, including decisions that affect them.

6.4 Public Awareness Strategy

We have reviewed the public awareness strategy employed by the Ombudsman's Office. The Ombudsman's Office currently uses three key methods to promote public awareness of the role and function of the Ombudsman within the community. These are:

- the annual report;
- fostering and maintaining good media relations in order to gain press coverage; and
- public awareness visits to regional centres. Whilst no public awareness visits were made in 1991/92, due to budgetary cutbacks, visits have resumed in 1993, albeit at a restricted level.

Other methods employed by the Ombudsman's Office to increase the level of public awareness include:

- speaking engagements to various community groups, Sydney based technical colleges, the Police and Corrective Services;
- the presentation of papers to various conferences and government bodies;
- the provision of brochures discussing the role and functions of the Ombudsman to community centres, public authorities and the law society for distribution. Brochures are also available at the Ombudsman's Office;
- liaison with public authorities in order to develop an awareness within these organisations. This is facilitated at present by the promotion of the CHIPS project to public authorities;
- the submission of reports to Parliament.

Based on our assessment of the Ombudsman's public awareness strategy, we believe that the strategies adopted to promote public awareness of the Ombudsman make appropriate use of a restricted budget. However, problems would appear to exist in raising the level of awareness of the Ombudsman within particular segments of the community, such as:

- Aboriginal and Torres Straight Islanders;
- people from non-English speaking backgrounds;
- youths;
- people with lower levels of education; and

- non-professional members of the work force.

The promotional efforts should be focussed on achieving greater coverage of stories about the Ombudsman in leading ethnic newspapers and the Koori Mail to attempt to overcome the current awareness problems. In order to ensure that cases can be reported in the press they must first be included in the annual report. The Ombudsman's Office must therefore be sure that cases selected for inclusion in the annual report include a selection of cases involving Aboriginal complainants and complainants from people from non-English speaking backgrounds.

The Ombudsman and Deputy Ombudsman (and possibly the Assistant Ombudsmen) should undertake public speaking engagements as an economical and effective means of promoting the Ombudsman's Office.

6.5 Information Technology

The main objectives of an information system should be to assist employees to perform their functions and provide management reports to enable management to improve the effectiveness and efficiency of the office. The computer systems used by the Ombudsman's Office currently fail to meet these objectives.

We have identified several issues with both the information technology used by the Ombudsman's Office and the application of this technology, that have resulted in the information system failing to meet its objectives. These are listed below.

- The Office's computer systems are fragmented. There are currently three (and with the impending introduction of the Wang system for the Inquiries area soon to be four) separate computer systems within the office. To date, the level of integration between these systems has been low.
- The Ombudsman's Office uses different database applications to record Police and General Area complaints. This creates unnecessary complication and expense.
- There is insufficient information recorded about complaints and investigative staff to enable meaningful assessments to be made about the efficiency and effectiveness of the Office's complaint handling and investigative personnel.
- There is insufficient information recorded to enable management to make meaningful assessments of office workflows, and hence to provide a useful management tool.
- The database used to record General Area complaints does not produce complaint trend or demographic information.
- The Information Technology (IT) Strategy developed in 1989 is confusing and inadequate. It is a mixture of high level comments on the computer industry at the time, non-specific strategic preferences, some new system implementation information and acquisition strategies.
- The current manager responsible for IT was originally an investigative officer who inherited his current role of Information Systems Manager at the time the Information Systems Group was formed. The position requires

specialised skills, and typically a specialist manager occupies this position.

- Although there are plans to develop a new IT strategic plan, there has already been a considerable amount spent on the current information systems which could be in conflict with the outcome of the plan.
- The Office needs to clearly distinguish its IT strategic plan (which provides high level information about the strategic direction for the Office's information systems for a specified period) from its IT tactical implementation plan (which provides specific information concerning the improvement of the Office's information systems) and develop its information systems accordingly.

The Ombudsman's Office is in the process of implementing a system for use in the inquiries area. This system is to provide a database for the recording of inquiries. We have not performed a detailed review of the appropriateness of this in the Office's IT strategy.

Without performing an in-depth review of the Ombudsman's Office's information systems, we are not in a position to make detailed recommendations regarding an appropriate course of action to address the issues outlined above. However, the following high level recommendations are made:

- The Ombudsman's Office should provide the necessary training to improve the skills of its Information Systems Group Manager.
- The Office should develop IT strategic and tactical plans. It is our understanding that a request for an expression of interest has been issued by the Office requesting assistance in this area.
- A freeze should be placed on all IT expenditure until the IT strategic and tactical plans have been developed, and endorsed by senior management.
- The Office should not enter into any contracts for the acquisition of IT equipment or services until the IT strategic and tactical plans have been developed and endorsed by senior management.

6.6 Management Reporting

Two of the most critical success factors for an efficient and effective office is the timeliness and quality of the management reports. The current office structure and reporting lines, together with poor information provided by the office computer systems, have contributed to diminish the effectiveness of these reports as management tools. The improved office structure leading to clearer lines of reporting and management would benefit from an improved information system.

Current management reports simply provide high level information about the number of complaints processed and the elapsed time to complete complaints. To effectively run the Ombudsman's Office, management require reports that will enable them to:

- make meaningful assessments about employee performance;
- assess the efficiency of employees;
- assess the required funding for the Ombudsman's Office;
- optimise the profile of complaints investigated by the Ombudsman's Office; and
- more accurately perform the corporate planning function.

The Office's monthly financial reporting is currently adequate for the requirements of the Office. Detailed line by line expenditure reports are prepared each month and compared to budget with explanations provided for significant variations.

The adoption of the suggested organisation structure and reporting lines will assist in defining the management reporting responsibilities and will place increased importance on the quality of information provided in management reports. However, the quality of this information will continue to remain poor until the information systems issues (outlined in Section 6.6) are addressed.

6.7 Special Inquiries

The Ombudsman is periodically required to undertake Special Inquiries which are essentially large investigations involving a high level of public interest. Special Inquiries involve a significant amount of the Office's resources, including a large proportion of the time of the statutory officer managing the Inquiry (e.g. Homefund Inquiry).

The Senate Committee review of the Commonwealth Ombudsman includes a recommendation that a special unit be established to undertake special inquiries of this nature. As a result, the possibility of establishing a similar unit within the NSW Ombudsman's Office has been considered.

On balance, we believe that the establishment of such a unit would result in reduced efficiency and effectiveness of the Ombudsman's Office. The main reasons are as follows:

- Special Inquiries are best conducted by selecting staff with the most relevant skills and experience to undertake the required investigations. The establishment of a Special Inquiries Unit would not allow this flexibility.
- In the case of the Commonwealth Ombudsman the range of areas which his Office is generally required to investigate is much narrower thereby lending itself toward the establishment of a Special Inquiries Unit. This is not the case in New South Wales; and
- Special Inquiries occur irregularly, with the result that the establishment of a Special Inquiries Unit would go through periods when the staff would be under utilised, and other times when the Unit would be under resourced.

7.0 OTHER STAFFING ISSUES

7.1 Introduction

There are a number of other staffing issues impacting on the Ombudsman's Office. These include:

- Secondments;
- Staff Contracts;
- Performance Appraisals;
- Career Path;
- Unpaid Overtime;
- Working Hours;
- Staff Turnover; and
- Staff Training.

These are discussed below.

7.2 Secondments

The efficiency and effectiveness of any organisation is significantly affected by the knowledge and experience of its employees. This is particularly true of the Ombudsman's Office, as many of the complaints investigated require specialist knowledge and experience. Secondments offer the Office a way in which it can obtain these specialist skills.

We believe that opportunities to use secondments as a way of resourcing the Ombudsman's Office and improving complaint handling skills within the NSW public sector should be investigated. Specifically, we recommend that the Ombudsman investigate opportunities to second staff from the complaint handling areas of public authorities as part of the Office's current 'CHIPS' project, aimed at improving complaint handling by NSW public authorities.

Staff currently employed in the complaint handling areas of public authorities should be targeted. Whilst we understand that under normal arrangements the receiving organisation pays the salary costs of the secondee, we recommend that the Ombudsman explore opportunities where the originating organisation meets the salary costs of secondees in exchange for the training in complaint handling skills they will acquire while at the Ombudsman's Office. The benefit to the Ombudsman would primarily come in the form of improved complaint handling by public authorities after the return of secondees to their original agency. The Ombudsman may also benefit from having the additional staff member who may have some experience in complaint handling procedures.

Public authorities for which the Ombudsman receives the greatest volume of complaints should be targeted for secondments in the first instance. They include:

- Department of Corrective Services;
- Department of Housing;
- Water Board;
- Department of Community Services; and
- Roads and Traffic Authority.

Seconded staff from public authorities should not be directly involved in an investigation of the authority from which they originate.

In order to allow time for secondees to learn about their role at the Ombudsman's Office and become productive members of staff, we recommend that secondments be for a minimum of 12 months and a maximum of 18 months. Longer term secondments (i.e. over 18 months) would increase the risk of secondees not returning to the complaints handling areas of the public authorities from which they came, thereby removing many of the benefits to be derived from the proposed secondment program.

In order to acquire skills for dealing with the police, the Ombudsman has traditionally entered into secondment agreements with the NSW Police Service. Police officers returning to the Service are reported to have experienced difficulties in being accepted by their colleagues due to their involvement in investigations of other police officers. Further to this, promotions achieved during a secondment at the Ombudsman's Office are not recognised when officers returned to the Police Service.

In order to overcome these problems, the Ombudsman's Office has recently employed ex-Police in order to acquire the required knowledge.

7.3 Staff Contracts

Interviews with staff indicated that an issue affecting staff morale is the employment of staff under temporary contracts, usually of four months duration, which are generally renewable for a set period. Some of the reasons given for this included a lack of job security, suspicions as to the reasons they are on contract and not made permanent members of staff, and resentment of staff with permanent positions.

As at 31 May 1993, 21 staff of the Office were employed under these temporary contracts, most of whom were working in the investigative teams.

At the end of each four month contract, a proper performance appraisal of staff is not conducted; rather forms are completed as a matter of process to ensure that contracts are renewed. Staff are generally not consulted in relation to this process. Consequently, the current system of four month contracts is not being used as a management tool to assess staff performance.

We recommend that the Ombudsman should employ staff for a probationary period (e.g. 4-6 months). After this time employees should either be taken on as permanent staff or terminated, based on their performance over the probationary period.

7.4 Performance Appraisals

It is important that employees understand the criteria for successful performance and that formal appraisals are conducted regularly against this criteria. The Ombudsman's Office does not currently have a formal system of appraising staff. Draft forms to be used for performance appraisal have been recently developed and are to be trialed for future implementation.

The implementation of a performance appraisal system will:

- provide staff with direction and feedback;

- provide a management tool necessary for the effective supervision of staff and the workload of the Ombudsman's Office; and
- assist with future negotiations under enterprise bargaining arrangements.

7.5 Career Path

A key factor in maximising the productivity of staff is to provide staff with the motivation to improve their performance by way of opportunities for career development or promotion. As a result of the relatively small size and reasonably flat structure of the Ombudsman's Office there is a belief that the organisation does not provide significant opportunities for internal career advancement. However, there is also a view that the Ombudsman's Office provides a 'stepping stone' to other external employment opportunities.

Our proposed organisation structure for the Office attempts to address the issue of limited internal career advancement. We believe that the creation of the two investigative teams with a wider range of gradings within teams will provide a slightly improved career path for investigative staff. For example, the grade 5 supervisor in the Inquiries Section could be promoted to the position of a grade 6 Investigation Officer in the Police Team. From this position, a grade 6 Investigation Officer has the opportunity to progress to a Police Manager, and ultimately to a statutory officer position.

7.6 Unpaid Overtime

In the Ombudsman's second submission to the Joint Committee, he indicated that the equivalent of \$80,000 of unclaimed overtime was worked by his staff in 1991/92. A similar level of unpaid overtime was anticipated in the current financial year compared with the budget for paid overtime in 1992/93 of \$29,000.

Based on a 35 hour week and the total Office salary cost for 1992/93, we estimate that \$80,000 of overtime equates to approximately 1 hour per week per member of staff on average. The working of approximately one hour of overtime per week is not considered excessive.

Notwithstanding this, we acknowledge that the overtime worked in the Ombudsman's Office is not distributed evenly across all members of staff. We believe that this reflects problems associated with the management and allocation of the Office workload. The recommended organisation structure should assist in alleviating this problem.

7.7 Working Hours

As a result of legislative changes that will allow the Ombudsman to undertake direct police investigations, it is quite likely that staff in the Police Team will need to work outside the normal flexi hours of 7am to 6pm (e.g interviewing witnesses unavailable during the day). We recommend that possibilities for expanding the flexi hour band be investigated to ensure that work performed during 'abnormal' hours is not lost by staff as would be the case under current flexi hour arrangements.

7.8 Staff Turnover

The turnover of staff in the Ombudsman's Office has historically been high as indicated in the table below.

Year	No. Staff to Leave*	% of Total Positions
1988/89	26	35%
1989/90	14	19%
1990/91	17	22%
1991/92	8	11%
1992/93	19	26%

* *Excludes short term temporary staff employed by Ombudsman's Office as relief staff.*

Source: Human Resources Manager, Ombudsman's Office

The costs of high staff turnover can include:

- loss of experience and knowledge resulting in reduced efficiency;
- greater requirement for staff training;
- higher than necessary recruitment costs; and
- impact on staff morale and productivity.

These costs may be offset by the benefits gained from a supply of new staff with new ideas who may see the Ombudsman's Office as a good training ground before moving on to other things. Notwithstanding this, we believe it would be desirable to reduce the current level of staff turnover. We therefore recommend that the following actions be taken:

- the current system of employing staff under temporary contracts should be ceased;
- a regular formal staff appraisal system should be introduced; and
- changes to the recruitment process should be implemented so that staff are aware of the opportunities for career progression within the Ombudsman's Office.

7.9 Staff Training

It is important that staff are adequately trained to undertake the tasks they are assigned. The needs of staff should be understood and training focussed and delivered in a structured way.

We recommend that a structured training needs analysis be undertaken and, in the short term, consideration be given to increasing opportunities for staff to undertake training in the following areas:

- management training;

- conciliation skills;
- negotiation skills; and
- investigation skills.

In addition, a more structured approach to inducting staff and explaining legislation should be introduced.

8.0 ASSESSMENT OF LOCATION

A detailed analysis of the location of the Ombudsman's Office is provided in Appendix 11. Based on this analysis, we believe that the principal locational requirements for the Office are as follows:

- separate to other government departments;
- within easy access to public transport for complainants visiting the Office;
- within a recognised district/centre in Sydney city/metropolitan area;
- a competitive rental and incentives package;
- all necessary physical attributes (e.g. security) are provided.

After consideration of all relevant issues, we believe that the present office location in the Coopers & Lybrand Building fulfils the Ombudsman's current requirements at a reasonable level of expenditure.

It should be noted that similar suitable office accommodation is presently available within the Sydney CBD/CBD fringe area at significantly lower rents, principally as a result of the decline in the property market and the current high vacancy levels in the Sydney area. The Ombudsman, however, is obliged to meet his current rental commitments until the present lease expires in 1995. Penalties would be involved if the Ombudsman was to terminate the current lease before the due date. This would not make any move at the current time financially feasible.

We recommend that the Office consider the locational options towards the expiry of the present six year lease in March 1995. The Office has the option for a six year renewal and may be in a position to negotiate more favourable terms with the landlord or consider alternative accommodation in the same area. In addition, the Ombudsman may be able to negotiate more favourable rental terms from the present date if he agrees now to exercise his option to extend the lease beyond the March 1995 expiry date. This option should also be explored.

9.0 RELEVANT SURVEY BASED INFORMATION

9.1 Introduction

Three surveys have been conducted which are relevant to our review. Two surveys were conducted independently of the review. They were:

- a survey of public awareness conducted in June 1992 and commissioned by the Commonwealth Ombudsman. Relevant points to arise from this survey have been discussed in Section 6;
- a survey of complainant satisfaction with the NSW Ombudsman, commissioned by the Ombudsman and undertaken by AGB McNair in March and April 1993. Relevant points to arise from this survey have been discussed in Section 3.

In addition to the above, we undertook a survey of public authorities as part of our review.

9.2 Survey of Public Authorities

The primary objective of this survey was to gather information from public authorities on the efficiency and effectiveness of the Ombudsman's Office in dealing with complaints made in regard to these authorities. A copy of the questionnaire sent to the public authorities is provided as Appendix 12.

A total of 65 self-completion questionnaires were mailed to public authorities and 35 were completed and returned. The number of public authorities to which questionnaires were sent, together with the number of responses received is shown below:

Public Authorities	Sent	Returned
Government departments and statutory authorities	28	15*
Local Government Authorities	15	9
Department of Corrective Services:		
• Department (Head Office)	2	1
• Prisons	10	3
• Juvenile Justice Centres	3	0
Police:		
• Assistant Commissioner, Professional Responsibility	1	1
• Internal Affairs Branch	2	2
• Executive Officers, Professional Responsibility, Regional Offices	4	2
Returned anonymously		2
TOTAL	65	35

* One public authority provided 3 responses.

MANAGEMENT REVIEW OF NEW OMUDSMAN'S OFFICE - SURVEY OF PUBLIC AUTHORITIES

Respondent:	Govt Depts & Statutory Authorities		Local Government Authorities		Department of Corrective Services / Prisons		Police		Anonymous		GRAND TOTAL	% OF RESPOND'S
	Total	% of Respondents	Total	% of Respondents	Total	% of Respondents	Total	% of Respondents	Total	% of Respondents		
Q1. Based on your understanding of Ombudsmen, do you agree or disagree with the following statements:												
Answers that were 'disagree':												
Provide sufficient time	4	24%	2	22%	2	50%	3	60%	0	0%	11	30%
Follows straight forward procedures	5	29%	1	11%	1	25%	3	60%	1	50%	11	30%
Make appropriate use of phone	5	29%	3	33%	0	0%	1	20%	1	50%	10	27%
Make appropriate personal visits	8	35%	2	22%	0	0%	1	20%	0	0%	8	24%
Clearly explain requirements	6	35%	1	11%	1	25%	2	40%	0	0%	10	27%
Have a good understanding of authority	12	71%	5	56%	2	50%	1	20%	0	0%	20	54%
Are easy to contact	1	6%	1	11%	0	0%	0	0%	0	0%	2	8%
Have a professional attitude	4	24%	0	0%	2	50%	0	0%	0	0%	6	16%
Are co-operative	2	12%	0	0%	1	25%	1	20%	1	50%	5	14%
Are willing to listen to your side	5	29%	1	11%	1	25%	1	20%	1	50%	9	24%
Provide unbiased assessment	5	29%	1	11%	2	50%	1	20%	1	50%	10	27%
Q2. Do you agree to the Ombudsmen acting as mediator between your authority and the complainant?												
Yes	9	53%	6	67%	3	75%	1	20%	1	50%	20	54%
No	7	41%	3	33%	0	0%	4	80%	1	50%	15	41%
Q3. Do you prefer to deal with the Ombudsmen:												
In writing	13	76%	5	56%	1	25%	2	40%	1	50%	22	59%
By telephone	7	41%	7	78%	3	75%	4	80%	1	50%	22	59%
By fax	6	35%	4	44%	0	0%	1	20%	0	0%	11	30%
Face-to-face	8	47%	6	67%	1	25%	2	40%	0	0%	17	46%
Q5. Approximately how often do you deal with the Ombudsmen:												
daily	0	0%	0	0%	1	25%	5	100%	1	50%	7	19%
several times per week	1	6%	0	0%	0	0%	0	0%	0	0%	1	3%
once per week	1	6%	0	0%	0	0%	0	0%	0	0%	1	3%
several times per month	5	29%	1	11%	0	0%	0	0%	0	0%	6	16%
once per month	3	18%	0	0%	0	0%	0	0%	0	0%	3	8%
once every 1-3 mths	3	18%	5	56%	2	50%	0	0%	0	0%	10	27%
once every 4-6 mths	2	12%	0	0%	0	0%	0	0%	1	50%	3	8%
once every 8-12 mths	2	12%	3	33%	0	0%	0	0%	0	0%	5	14%
less frequently	1	6%	0	0%	0	0%	0	0%	0	0%	1	3%
Q6. How would you rate your overall satisfaction with the Ombudsmen:												
Very satisfied	2	12%	3	33%	0	0%	0	0%	0	0%	5	14%
Satisfied	9	53%	4	44%	3	75%	3	60%	1	50%	20	54%
Marginal	4	24%	2	22%	1	25%	2	40%	0	0%	8	24%
Unsatisfied	1	6%	0	0%	0	0%	0	0%	0	0%	1	3%
Insufficient details to make assessment	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%
NUMBER OF RESPONDENTS	15		9		4		5		2		35	

* One department respondent 3 times.

A summary of responses is provided below and a table summarising results is shown on the facing page. Caution should be exercised when interpreting the results of the survey due to the relatively small sample size. Notwithstanding this, we believe a number of important issues were raised which need to be considered.

9.2.1 Responses from Government Departments and Statutory Authorities

Knowledge of Government Department or Statutory Authority

Two out of three government departments and statutory authorities ('departments') believed that the Ombudsman's Office has a lack of understanding of their department.

In several instances, respondents indicated that there was no consistent level of understanding of their department by the staff of the Ombudsman's Office and, as a result, some staff were better able to handle a complaint against their department than others.

These respondents believed this to be an important issue and suggested that efforts should be made by the Office to improve its understanding of the departments with which it deals.

Method of Approach

Concerns were expressed by one in three departments that staff of the Ombudsman's Office sometimes do not use formal channels and approach inappropriate levels of staff within departments, sometimes contrary to instructions given to the Ombudsman. Some respondents claimed that this can result in less informed staff providing misleading information to the Ombudsman.

We appreciate that problems may arise when staff of the Ombudsman adopt this approach for informal investigations, but at the same time note that it may also reduce delays and, more importantly, avoid situations where a department prepares a response for the Ombudsman which may not properly reflect the facts. Nevertheless, we recommend that caution be taken by the Ombudsman when dealing with complaints through anything other than formal channels. Investigation staff should discuss their proposed approach with their supervisor prior to making any enquiries via informal channels.

Nature of Complaints

Two departments indicated concern about not being properly informed about the nature of complaints being investigated. They claimed that this sometimes led to confusion and hindered the investigation process. A more open approach to investigations was suggested.

We recommend that, while the level of information provided to departments should be left up to the discretion of staff conducting the investigation, unnecessary withholding of information should be avoided. Investigation Staff should also consult their supervisor in relation to these matters.

Role of Ombudsman as a Mediator

One in two respondents considered the Ombudsman had a valid role as a mediator, mainly as a result of his independence and skills. Several suggested that the Ombudsman act as mediator on certain issues only. Other respondents rejected the Ombudsman's role as a mediator completely, for reasons such as lack of independence, lack of skills and lack of knowledge concerning their organisation.

Communication with the Ombudsman

The most popular form of communicating with the Ombudsman was in writing (76% of respondents). The need for written communication was considered important, particularly for investigations. This was followed by face-to-face discussions (47%), telephone discussions (41%) and facsimile correspondence (35%).

Overall Satisfaction

Two in three respondents indicated that they were satisfied with the Ombudsman's Office, although a number believed improvements could be made if the Ombudsman had a better understanding of their organisation. Several respondents indicated concerns regarding the independence of the Ombudsman.

9.2.2 Responses from the Department of Corrective Services

The main issues raised were:

- insufficient time is provided by the Ombudsman for the Department to respond to requests for information;
- the Ombudsman does not have a good understanding of the Department, and would benefit from a review of the business and strategic plans of the Department and individual branches;
- the Ombudsman's staff do not have a professional attitude;
- the Ombudsman does not provide an unbiased assessment of complaints;
- there is a role for the Ombudsman to act as a mediator;
- respondents preferred to deal with the Ombudsman in writing, although increased use of face-to-face discussions could be helpful.

Three of the four respondents were satisfied with the Ombudsman, while the other respondent indicated a 'marginal' overall level of satisfaction.

In summary, the main issue with the Department of Corrective Services is that the staff of the Ombudsman need to develop a better understanding of the Department.

9.2.3 Responses from Local Government Authorities

Consistent with other groups of respondents, one in two local government authority respondents indicated concerns regarding the level of understanding of the Ombudsman of the roles and functions of local government.

Other issues raised included:

- two in three respondents agreed that there was a role for the Ombudsman as a mediator, though not in all situations;
- telephone was the preferred method of communication (78% of respondents), followed by face-to-face dealings (67%), written correspondence (56%) and facsimile (44%). Additional comments provided by respondents emphasised the

effectiveness of face-to-face contact to clarify issues and the efficiency of using the telephone to clarify initial matters;

- over 75% of respondents indicated they were satisfied or very satisfied with the Ombudsman's Office.

9.2.4 Police

The major concerns raised by police were:

- while police are required to provide responses to the Ombudsman within set timeframes, determinations by the Ombudsman on completed reports may be delayed for long periods. Respondents generally considered this situation to be unreasonable, and considered that the Ombudsman should provide a determination within a defined timeframe;
- respondents questioned the independence and impartiality of the Ombudsman in the assessment of complaints;
- they generally did not consider that there was a role for the Ombudsman to act as a mediator between police and complainants;
- some respondents considered that they were not always provided with adequate time to respond to requests for information;
- procedures followed by the Ombudsman were not always considered to be 'straight forward';
- a greater level of communication by telephone was generally encouraged, as well as greater face-to-face contact;
- as with other respondents, police indicated that problems sometimes arose because not all staff at the Ombudsman's Office understood their organisation or appreciated the environment within which they worked.

9.2.5 Survey Conclusions

The most important finding of the survey of public authorities was the need for the Ombudsman's Office staff to improve their understanding of the public authorities with which they deal. This can be achieved through:

- greater specialisation by investigation staff;
- an improved research capability within the Ombudsman's Office. The current Office library should be upgraded and a position of researcher/librarian created. This person should be responsible for the library and for developing and maintaining up to date profiles of public authorities, particularly those regularly dealt with by the Ombudsman. Suggestions provided by respondents included an understanding of public authority's business plans and a greater level of face-to-face communication to develop a better level of understanding and mutual trust.

Other important issues raised by the survey were:

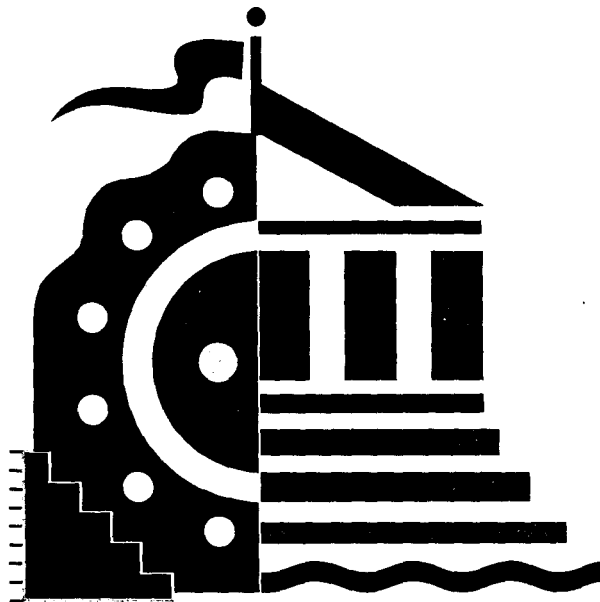
- the need for caution to be taken when staff choose not to use formal channels of enquiry during investigations and for supervisors to be consulted;
- that significant opportunities exist for the Ombudsman to act as a mediator between public authorities and complainants. The exception to this is in the police area;
- greater use of the telephone should be made as a means of communication, particularly during initial investigations, as should face-to-face contact with public authorities;
- the Ombudsman should meet deadlines for conducting investigations and making determinations, particularly in the police area, in light of the deadlines placed on public authorities by the Ombudsman.

Document D

**Management Review of the NSW Office of the Ombudsman,
Appendices (Volume II), 16 July 1993,
KPMG Peat Marwick Consultants (Sydney)**

**MANAGEMENT REVIEW
OF THE NSW OFFICE
OF THE OMBUDSMAN**

**VOLUME II
APPENDICES**



VOLUME II
MANAGEMENT REVIEW OF
THE NSW OFFICE OF THE
OMBUDSMAN

APPENDICES

KPMG PEAT MARWICK MANAGEMENT CONSULTANTS
Sydney

July 1993

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APPENDIX 1
CURRENT STRUCTURE - PROFILE OF
KEY ROLES AND FUNCTIONS

STATUTORY OFFICERS

Position:	Ombudsman
Reports to:	Parliament / Parliamentary Committee
Direct Reports:	<ul style="list-style-type: none"> • Deputy Ombudsman • Assistant Ombudsman (Police) • Assistant Ombudsman (Prisons and Local Government) • Senior Executive Assistant (Police).
Key Tasks:	<ul style="list-style-type: none"> • policy formulation; • liaison with Ministers and CEO's of public authorities; • media relations; • responsibility for the overall operations of the Ombudsman's Office, including the review and signing out of reports prepared by his Office; • provision of advice to staff as required; • a direct role in more serious complaints being investigated by his Office, including those which are politically sensitive, are likely to result in considerable publicity, or require a significant amount of his Office resources.
Other Comments:	Office administration has been delegated to the Deputy Ombudsman, who in turn has delegated day to day administration responsibilities to the Executive Officer.

Position:	Deputy Ombudsman
Reports to:	Ombudsman
Direct Reports:	<ul style="list-style-type: none"> • Principle Investigation Officer • Executive Officer • Senior Investigation Officer Telecommunications Interception Inspection Unit • 2 x Investigation Officers, Freedom of Information Unit
Key Tasks:	<p>The Deputy Ombudsman is responsible for the handling of complaints against government departments and statutory authorities. These complaints comprise approximately 20% of total complaints.</p> <p>The main tasks of the Deputy Ombudsman are:</p> <ul style="list-style-type: none"> • reading all mail relating to government departments and statutory authorities, and to fill out 'birth certificates'* providing directions on how complaints are to be dealt with; • providing advice to staff as required (particularly in relation to the interpretation of legislation); • reviewing reports and correspondence (e.g. where a Section 16 notice is to be issued under the Ombudsman Act); • assisting in conducting Section 19 hearings; • leading special investigations, such as the current Homefund Inquiry, unless they fall into an area of expertise covered by one of the Assistant Ombudsmen; • liaising with the Joint Committee and the Independent Committee Against Corruption (ICAC); • providing advise to the Ombudsman on a variety of issues such as legislation, the preparation of reports to Parliament and matters relating to the Joint Committee and ICAC; • supervising the Telecommunications Interception Inspection Unit; and • supervising the Freedom of Information Unit.

* 'Birth Certificates' are forms attached to complaint files which are completed by statutory officers providing instructions on how a complaint is to be dealt with (e.g. whether to decline a complaint not within jurisdiction, to undertake a preliminary investigations).

Position:	Assistant Ombudsman (Police)
Reports to:	Ombudsman
Direct Reports:	<ul style="list-style-type: none"> • 2 x Executive Assistants (Police) • Principal Investigations Officer (dotted line reporting relationship only)
Key Tasks:	<p>The Assistant Ombudsman (Police) is responsible for complaints against Police. These complaints currently represent over 60% of complaints received by the Ombudsman's Office.</p> <p>The main tasks of the Assistant Ombudsman (Police) are to:</p> <ul style="list-style-type: none"> • read all mail in relation to Police complaints; • complete 'birth certificates' providing directions on how complaints are to be dealt with by investigative staff; • provide advice to staff investigating Police complaints (including re-investigations and decisions to sustain or not sustain complaints); • review reports and correspondence; • supervise special projects undertaken by the Ombudsman's Office which relate to the Police; and • other special police related projects as required.
Other Comments:	Members of the investigation teams, indicated in the diagram of the current office structure, do not have a direct reporting relationship with the Assistant Ombudsman (Police). Notwithstanding this, investigation staff working on complaints against the police consult with the Assistant Ombudsman (Police) on a regular basis.

Position:	Assistant Ombudsman (Prisons and Local Government)
Reports to:	Ombudsman
Direct Reports:	<ul style="list-style-type: none"> • No Direct Reports • Principal Investigations Officer (dotted line reporting relationship only) • Investigation Officer Local Government (dotted line reporting relationship only)
Key Tasks:	<p>Responsible for complaints against prisons and local government. The Assistant Ombudsman (Prisons and Local Government) [Assistant Ombudsman (P&LG)] has the same primary functions as the Assistant Ombudsman (Police). He is also responsible for other general management activities such as:</p> <ul style="list-style-type: none"> • co-ordinating the corporate planning process; • co-ordinating a survey of complainants; and • over-seeing the development of the complaints handling project (CHIPS).
Other Comments:	The Assistant Ombudsman (P&LG) is also called upon to support the Deputy Ombudsman on occasions when the Deputy Ombudsman is occupied on other matters, such as special Inquiries (e.g. Homefund Inquiry).

INVESTIGATIVE TEAMS

Organisational Unit	Investigative Teams
Reports to:	Principal Investigative Officer
Key Tasks:	<p>The key functions of investigative teams are:</p> <ul style="list-style-type: none"> • to undertake formal and informal investigations of public authorities in response to complaints received by the Ombudsman; and • to prepare reports, submissions and recommendations as a result of these investigations as required under the Ombudsman Act and the Police Regulation (Allegation of Misconduct) Act 1978 [PRAM Act].

Position:	Principle Investigation Officer, Grade 11-12
Reports to:	Deputy Ombudsman Assistant Ombudsmen (dotted line reporting relationship)
Direct Reports:	<ul style="list-style-type: none"> • four Senior Investigation Officers within investigative teams; • Inquiries Section.
Key Tasks:	<p>The key tasks of the Principal Investigation Officer are:</p> <ul style="list-style-type: none"> • allocating work to each investigative teams; • monitoring the work of investigative teams; • supervising the Senior Investigation Officers; • supervising the operations of the investigative teams; • liaising with the Manager, Information Systems, to ensure the timely production of complaint statistics and file management; • providing regular reports to management regarding the workload of the investigative teams, including liaising with statutory officers concerning the allocation and handling of files; • assisting statutory officers in the reading of the mail; • co-ordinating and providing advice on major investigations; • undertaking special investigations as required; • co-ordinating staff training; • devising and implementing an effective performance appraisal system for investigation staff, in conjunction with the Human Resources Manager; and • supervising the Inquiries Section.

Position:	Senior Investigation Officers, Grade 9-10
Reports to:	Principle Investigation Officer
Direct Reports:	Investigation Officers, Investigative Assistants
Key Tasks:	<p>Each investigative team is headed by an Senior Investigation Officer, whose key tasks are:</p> <ul style="list-style-type: none"> • managing investigative teams; • allocating and monitoring the work of the team; • providing regular reports to the Principal Investigation Officer on the function of the team; • carrying out investigations of public authorities, particularly more serious and complex investigations, and associated activities; • preparing reports in respect of wrong conduct for referral to the Minister, heads of public authorities, industrial authorities and complainants in terms of Sections 26, 27 and 29 of the Ombudsman Act, and Section 28, 30 and 31 of the PRAM Act, and special reports to Parliament under Section 31 of the Ombudsman Act and Section 32 of the PRAM Act; • assisting statutory officers in conducting Section 19 hearings; • undertaking special projects as required by the Ombudsman; • preparing policy notes and briefing advice to the Ombudsman; and • participating and organising public awareness campaigns.

Position:	Investigation Officers, Grade 7-8
Reports to:	Senior Investigation Officer
Direct Reports:	none
Key Tasks:	<p>The key tasks of the Investigation Officers are to:</p> <ul style="list-style-type: none"> • carry out investigations of public authorities and associated activities; • prepare reports in respect of wrong conduct for referral to the Minister, heads of public authorities, industrial authorities and complainants in terms of Sections 26, 27 and 29 of the Ombudsman Act, and Section 28, 30 and 31 of the PRAM Act, and special reports to Parliament under Section 31 of the Ombudsman Act and Section 32 of the PRAM Act; • undertake special projects as required by the Ombudsman; • prepare topic notes and case summaries for inclusion in the annual report; and • participate in public awareness campaigns.

Position:	Investigative Assistant, Grade 1-4
Reports to:	Senior Investigation Officers
Direct Reports:	none
Key Tasks:	<p>Each team is supported by Investigative Assistants (including Senior Investigative Assistants), whose key tasks are to:</p> <ul style="list-style-type: none"> • undertake word processing; • answer general inquiries about activities of the teams; • liaise with complainants on behalf of Investigation Officers; • undertake day to day supervision / control of computer equipment, and report problems associated with equipment to management; and • prepare simple correspondence.
Other Comments:	Senior Investigative Assistants are also required to determine priorities and allocate work amongst Investigative Assistants.

FOI UNIT

Unit:	Freedom of Information Unit
Reports to:	Deputy Ombudsman
Consists of:	<ul style="list-style-type: none"> • 2 x Investigation Officer, Grade 7-8; • 1 x Assistant Investigation Officer, Grade 4-5; and • 1 x Investigative Assistant, Grade 1-2.
Key Responsibilities:	<p>The key responsibilities of the investigation staff within the FOI Unit are:</p> <ul style="list-style-type: none"> • to assess applications under the FOI Act for information held by the Ombudsman's Officer and prepare responses to those applications; • to arrange for those documents to be made available to applicants where appropriate; and • in accordance with Part 5, Division 1 of the FOI Act investigate complaints relating to documentation made by an agency under that Act.
Other Comments:	Members of the FOI Unit are also included as members of the main investigative teams, and in theory are supposed to assist in complaint handling activities in relation to non-FOI complaints as well. However, FOI Unit staff indicated that in reality they do not normally have sufficient time available to spend on dealing with non-FOI complaints.

TELECOMMUNICATIONS INTERCEPTION INSPECTION UNIT

Organisation Unit:	Telecommunications Interception Inspection Unit
Reports:	Deputy Ombudsman
Consists of:	<ul style="list-style-type: none"> • 1 x Senior Investigation Officer, Grade 9; • 1 x Investigation Officer, Grade 7-8; • 1 x Assistant Investigation Officer, Grade 4-5; and • 1 x Investigative Assistant, Grade 1-2.
Key Responsibilities:	<p>The Senior Investigation Officer is responsible for:</p> <ul style="list-style-type: none"> • supervising the activities of the Telecommunications Interception Inspection Unit; • reporting to the Deputy Ombudsman; and • undertaking inspections of eligible authorities. <p>The Investigation Officer and Assistant Investigation Officer are responsible for:</p> <ul style="list-style-type: none"> • assisting the Senior Investigation Officer in undertaking inspections of eligible authorities. <p>Discussions with the Senior Investigation Officer indicated that the key responsibilities of the Investigative Assistant currently are:</p> <ul style="list-style-type: none"> • ensuring the security of the Telecommunications Interception Inspection Unit which is separately located to the rest of the Ombudsman's Office (n.b. during the time of this review the Telecommunications Interception Inspection Unit was temporarily located in a locked office on the same floor as the rest of the Ombudsman's Office); • maintaining all files; • undertaking word processing for the Unit; and • answering telephone calls.
Other Comments:	<p>A minimum of two investigative staff are required to undertake inspections as it is necessary that a witness be present during these inspections.</p> <p>Telecommunications Interception Inspection Unit staff are also allocated to investigative teams in order to integrate them into the main stream Ombudsman's Office. This primarily involves attending weekly staff meetings, although within their duty statements they can also be called upon to assist the investigative teams in complaint handling activities. This would not appear to happen in practise.</p> <p>The Investigation Officer position is currently vacant, and the Assistant Investigation Officer is acting in this position.</p>

INQUIRIES SECTION

Unit:	Inquiries Section
Reports to:	Principal Investigation Officer
Consists of:	<ul style="list-style-type: none"> • 1 x Assistant Investigation Officer, grade 5 • 3 x Assistant Investigation Officers, grade 3-4.
Key Responsibilities:	<p>The primary functions of the Inquiries Section are to:</p> <ul style="list-style-type: none"> • handle telephone inquiries; • interview complainants either face to face or by the telephone and provide appropriate advice on the Ombudsman's jurisdiction; • advise complainants either verbally or in writing of alternative means of redress; • undertake reception duties; • co-ordinate and update a register of complaint handling units and contact officers in NSW public authorities; • prepare correspondence when the complaint is outside of the Ombudsman's jurisdiction, and for non-investigation / decline matters; and • undertake special projects as required by the Principal Investigation Officer.
Other Comments:	<p>Members of the Inquiries Section are also assigned to investigative teams so as to integrate them into the wider operations of the Ombudsman's Office. However, they do not become involved in the day to day operations of the investigative teams.</p> <p>Inquiries are handled by inquiries staff, whether working in the Inquiries Area or working at reception.</p>

ADMINISTRATION SECTION

Unit:	Administration Section
Reports to:	Deputy Ombudsman
Consists of:	<p>The Administration Section, is headed by an Executive Officer [grade 11-12]. A total of seven staff report to the Executive Officer. They are:</p> <ul style="list-style-type: none"> • Manager, Information Systems (grade 9-10); • Human Resources Manager (grade 7-8); • Financial Accountant (grade 7-8); • Media Officer (grade II); • 3 x Executive Assistants (grade 3) - this is a dotted line reporting relationship. Executive assistants also report to the statutory officers to whom they are assigned.
Responsibilities:	<p>Primary functions:</p> <ul style="list-style-type: none"> • <i>accounts</i> - responsible for the accounting functions of the Ombudsman's Office; • <i>human resources</i> - responsible for recruitment, payroll, flexi sheets, maintenance of leave records, renewal of four month contracts with staff, etc; • <i>information systems</i> - responsible for receipt and distribution of mail and files, records maintenance, data collection and information systems; • <i>media</i> - responsible for annual report and media relations; • <i>secretarial staff</i>. <p>The Administration Section is also required to perform a wide range of additional management related tasks including:</p> <ul style="list-style-type: none"> • supervising the preparation of annual estimates of expenditure; • providing monthly budget control reports to management; • undertaking confidential and special projects in relation to administration and investigations; • providing assistance to the Ombudsman in relation to the investigation of complaints; • the development of a performance management system for appraisal of statutory officers (in conjunction with the Principal Investigation Officer); • assisting the Assistant Ombudsman (P&LG) in the corporate planning process; • co-ordinating the implementation of the structural efficiency principle at the Ombudsman's Office;

	<ul style="list-style-type: none">• performing risk management duties in accordance with the Government Risk Management Insurance Scheme;• performing the duties of the Ethnic Affairs Policy Statement Co-ordinator within the Ombudsman's Office;• performing the duties of the Equal Employment Opportunity Co-ordinator;• providing advice and assisting in staff training;• co-ordinating the weekly management meetings; and• establishing the Ombudsman's Office's approach to enterprise bargaining agreements. <p>The Executive Officer holds primary responsibility for performing these tasks.</p>
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APPENDIX 2
RECOMMENDED STRUCTURE - PROFILE
OF KEY ROLES AND FUNCTIONS

STATUTORY OFFICERS

Position:	Ombudsman
Reports to:	Parliament / Parliamentary Committee
Direct Reports:	<ul style="list-style-type: none">• Deputy Ombudsman only
Significant Changes:	<p>The functions of the Ombudsman do not change significantly under the new structure. However, the following recommendations are made:</p> <ul style="list-style-type: none">• the Ombudsman should be responsible for driving the organisation, to be demonstrated through his responsibility for co-ordinating and directing the corporate planning process. This is a role which should not be delegated;• the Ombudsman should only have a direct involvement in the handling of complaints that are of a serious or complex nature, and/or complaints which involve a high level of public interest or political sensitivity;• the Ombudsman should provide advice on complex and/or sensitive matters, particularly in relation to legislation, which cannot be satisfactorily handled by the other statutory officers; and• the Ombudsman should place increased emphasis on undertaking speaking engagements and public awareness visits in order to raise the level of awareness and understanding of his Office.

Position:	Deputy Ombudsman
Reports to:	<ul style="list-style-type: none"> • Ombudsman
Direct Reports:	<ul style="list-style-type: none"> • Assistant Ombudsman (Police); • Assistant Ombudsman (General Area Complaints) [Assistant Ombudsman (GA)]; • Executive Officer; • Supervisor, TII Unit; • Senior Executive Assistant
Significant Changes:	<p>The key changes to the Deputy Ombudsman's responsibilities under the proposed structure are:</p> <ul style="list-style-type: none"> • the Deputy Ombudsman's primary responsibility will be to provide support and assistance to the Ombudsman as required; • responsibility for the handling of complaints against government departments and statutory authorities will be transferred to the newly created statutory officer position of Assistant Ombudsman (General Area), as will responsibility for the FOI Unit; • increased emphasis will be placed on the Deputy Ombudsman's responsibility for undertaking policy / strategy development. The intention is that this will ultimately result in more efficient and effective procedures being developed for the Ombudsman's Office; • the Deputy Ombudsman should only have direct involvement in the handling of complaints that are of a serious or complex nature, and/or complaints that involve a high level of public interest and/or political sensitivity; • the Deputy Ombudsman will provide advice to staff regarding complex or sensitive issues (including the interpretation of legislation) which can not be satisfactorily resolved by the Assistant Ombudsmen; • the Deputy Ombudsman will play a key role in undertaking speaking engagements and public awareness visits; and • the Deputy Ombudsman will be responsible for supervising and monitoring the performance of the Assistant Ombudsmen.

Position:	Assistant Ombudsman (General Area)
Reports to:	Deputy Ombudsman
Direct Reports:	The following positions will report to the Assistant Ombudsman (GA): <ul style="list-style-type: none"> • General Area Manager, grade 12-13; • 3 x Investigation Officers, FOI Unit.
Significant Changes:	<p>Under the proposed structure the Assistant Ombudsman (GA) will be responsible for:</p> <ul style="list-style-type: none"> • the General Area team (responsible for the handling of all non-police complaints and discussed below); • the FOI Unit; and • the Inquiries Section. <p>Key functions of the Assistant Ombudsman (GA) will be to:</p> <ul style="list-style-type: none"> • develop policies for the handling of general area complaints and strategies to improve the efficiency and effectiveness of the team; • read general area mail and complete birth certificates providing directions to team members in terms of the most appropriate method of handling each complaint; • supervise and co-ordinate complex investigations; • review and sign out reports on all formal investigations undertaken in the general area; • provide advice and supervision to team staff as required; • undertake performance appraisal of team staff in conjunction with the GA Manager; • undertake recruitment activities; and • supervise the FOI Unit.
Other Comments:	<p>The rationale behind the formation of the General Area team and a Police Team is discussed below under the section discussing the Investigative Teams.</p> <p>KPMG believes that the formation of a General Area team to be headed by the Assistant Ombudsman (GA), will facilitate better management and supervision of the handling of general area complaints than exists under the current structure. This should assist the Ombudsman's Office to improve the efficiency and effectiveness of the handling of general area complaints. We note, however, that the effectiveness of management is strongly influenced by the adequacy of management information systems. Current systems will require upgrading.</p> <p>Under the proposed structure the Assistant Ombudsman (GA) will be responsible for approximately one third of total complaints.</p>

Position:	Assistant Ombudsman (Police)
Reports to:	Deputy Ombudsman
Direct Reports:	<ul style="list-style-type: none"> • Police Manager (discussed later)
Significant Changes:	<p>Under the proposed structure the Assistant Ombudsman (Police) will continue to be responsible for the handling of all complaints against police received by the Ombudsman's Office. The key difference under the new structure will be that the Assistant Ombudsman (Police) will have a dedicated team of investigation staff to handle police complaints. This should give rise to greater efficiencies and effectiveness in the way the Ombudsman's Office handles complaints against police.</p> <p>The responsibilities of the Assistant Ombudsman (Police) will essentially be the same of those of the Assistant Ombudsman (General Area), but in the Police area, and will exclude responsibility for the FOI Unit, Telecommunications Interception Inspection Unit and Inquiries Section. The Assistant Ombudsman (Police) will also be responsible for:</p> <ul style="list-style-type: none"> • overseeing the implementation of the Ombudsman's responsibilities under the new legislation relating to police; and • supervising direct investigations resulting from the new legislation.

INVESTIGATIVE TEAMS

General Area Team

Position:	GA Manager, Grade 12
Reports to:	Assistant Ombudsman (GA)
Direct Reports:	<ul style="list-style-type: none">• Senior Investigative Officers• Investigation Officers• Team Assistants
Key Tasks:	<ul style="list-style-type: none">• assisting the Assistant Ombudsman (GA) in the reading of the general area mail;• assisting in the development of policies for the handling of general area complaints, strategies to improve the efficiency of the team, etc;• undertaking special investigations as required;• liaising with the Manager, Information Systems, to ensure the timely production of complaint statistics and file management;• providing regular reports to management regarding the workload of the GA team;• supervising the Inquiries Section;• assisting in the recruitment of team staff;• co-ordinating the training of team members; and• implementing an effective performance appraisal system for team members.
Other Comments:	The GA Manager will not maintain a personal case load of complaints, but will focus upon the management and supervision of the team.

Position:	Senior Investigation Officers, Grade 9 -11
Reports to:	GA Manager
Direct Reports:	<ul style="list-style-type: none"> • No direct reports • Investigation Officers (dotted line reporting relationship)
Key Tasks:	<p>Senior Investigation Officers will be responsible for:</p> <ul style="list-style-type: none"> • carrying out investigations of public authorities, particularly more serious and complex investigations, and associated activities; • preparing reports in respect of wrong conduct for referral to the Minister, heads of public authorities, industrial authorities and complainants in terms of Sections 26, 27 and 29 of the Ombudsman Act, and special reports to Parliament under Section 31 of the Ombudsman Act; • assisting in the supervision of Investigation Officer's work; • on-the-job training of Investigation Officers; • the signing out of letters relating to non-jurisdiction, declines at the outset, and letters relating to preliminary enquiries; • assisting the Assistant Ombudsman (GA) in conducting Section 19 hearings; • undertaking special projects as required by the Assistant Ombudsman (GA); and • participating and organising public awareness campaigns.

Position:	Investigation Officers, Grade 6-8
Reports to:	<ul style="list-style-type: none"> • General Area Manager • Senior Investigative Officers (dotted line reporting relationship)
Direct Reports:	None
Key Tasks:	The key functions of the Investigation Officers will remain unchanged under the new structure , apart from the fact that Investigation Officers in the GA team will only be required to undertake non-police complaints. Greater specialisation within the GA team will also be encouraged (i.e. in relation to public authorities).
Other Comments:	<p>Points that KPMG would like to note in terms of the role of the Investigation Officers are:</p> <ul style="list-style-type: none"> • Investigation Officers will undertake a larger number of simpler investigations, conciliations and declines than Senior Investigation Officers; • if complaints being handled by Investigation Officers become more complex than originally anticipated, Senior Investigation Officers would be required to provide assistance; • Investigation Officers will have the authority to sign out some letters (e.g. declines at the outset and letters relating to preliminary enquiries); and • Investigation Officers will required to carry a greater case load than Senior Investigation Officers as they would not be responsible for any supervisory activities.

Position:	Team Assistants, Grade 1-3
Reports to:	GA Manager
Direct Reports:	None
Key Tasks:	<p>Team assistants, grades 1-3, will be provided to support the GA team in the following areas:</p> <ul style="list-style-type: none"> • word processing; • photocopying; • the formatting of reports; • answering telephones; • co-ordinating bookings for public awareness visits; • assisting in arrangements for section 19 hearings; • preparing simple correspondence in response to complaints outside of the Ombudsman's jurisdiction and simply declines; and • other support activities as required.

INVESTIGATIVE TEAMS

Police Team

Position:	Police Manager, Grade 12
Reports to:	Assistant Ombudsman (Police)
Direct Reports:	<ul style="list-style-type: none"> • Senior Investigation Officers; • Investigation Officers; and • Team Assistants.
Key Tasks:	<ul style="list-style-type: none"> • allocating and monitoring the work of team members; • supervising team members; • the review of and signing out of documentation not requiring the signature of the statutory officer; • co-ordinating and providing advice on major investigations involving complaints against police including direct investigations; • assisting the Assistant Ombudsman (Police) in the reading of the police mail; • assisting in the development of policies for the handling of complaints against police, strategies to improve the efficiency of the team, etc; • undertaking special investigations as required; • liaising with the Manager, Information Systems to ensure the timely production of complaint statistics and file management; • providing regular reports to management regarding the workload of the Police team; • assisting in the recruitment of team staff; • co-ordinating the training of team members; and • implementing an effective performance appraisal system for team members.
Other Comments:	The Police Manager will not maintain a personal case load of complaints, but will focus upon the management and supervision of the team.

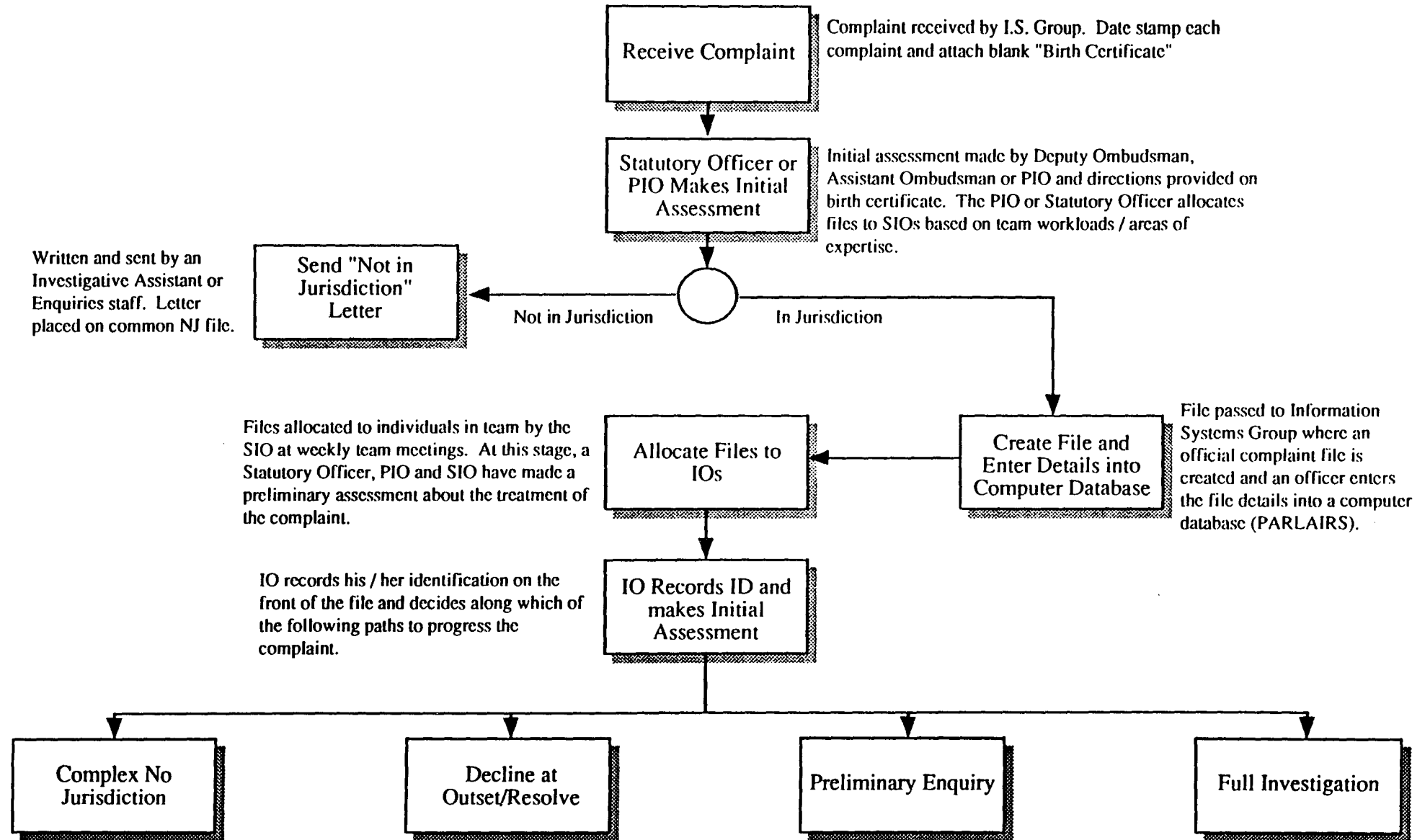
Position:	Senior Investigation Officers, Grade 9-11
Reports to:	Police Manager
Direct Reports:	<ul style="list-style-type: none"> • No direct reports • Investigation Officers (dotted line reporting relationship)
Key Tasks:	<p>Senior Investigation Officers will be responsible for:</p> <ul style="list-style-type: none"> • carrying out investigations of public authorities, particularly more serious and complex investigations, and associated activities; • preparing reports in respect of wrong conduct for referral to the Minister, heads of public authorities, industrial authorities and complainants in terms of Sections 28, 30 and 31 of the PRAM Act, and special reports to Parliament under Section 32 of the PRAM Act; • assisting in the supervision of Investigation Officer's work; • on-the-job training of Investigation Officers; • the signing out of letters relating to non-jurisdiction, declines at the outset, and letters relating to preliminary enquiries; • assisting the Assistant Ombudsman (Police) in conducting Section 19 hearings; • undertaking special projects as required by the Assistant Ombudsman (Police); and • participating and organising public awareness campaigns.

Position:	Investigation Officers, Grade 6-8
Reports to:	<ul style="list-style-type: none"> • Police Manager • Senior Investigation Officers (dotted line reporting relationship)
Direct Reports:	None
Key Tasks:	The key functions of the Investigation Officers will remain unchanged under the new structure, apart from the fact that Investigation Officers in the Police team will only be required to undertake investigations into police complaints.
Other Comments:	<p>The same points relevant to Investigation Officers in the GA team apply to the Investigation Officers in the Police team, namely:</p> <ul style="list-style-type: none"> • Investigation Officers will undertake a larger number of simpler investigations, conciliations and declines than Senior Investigation Officers; • if complaints being handled by Investigation Officers become more complex than originally anticipated, Senior Investigation Officers would be required to provide assistance; • Investigation Officers will have the authority to sign out some letters (e.g. declines at the outset and letters relating to preliminary enquiries); • Investigation Officers will be required to carry a greater case load than Senior Investigation Officers as they would not be responsible for any supervisory activities. <p>KPMG proposes that one Senior Investigation Officer position be given responsibility for co-ordinating all conciliation and mediation activities, reflecting the increased emphasis that will be placed on this function under new legislation.</p>

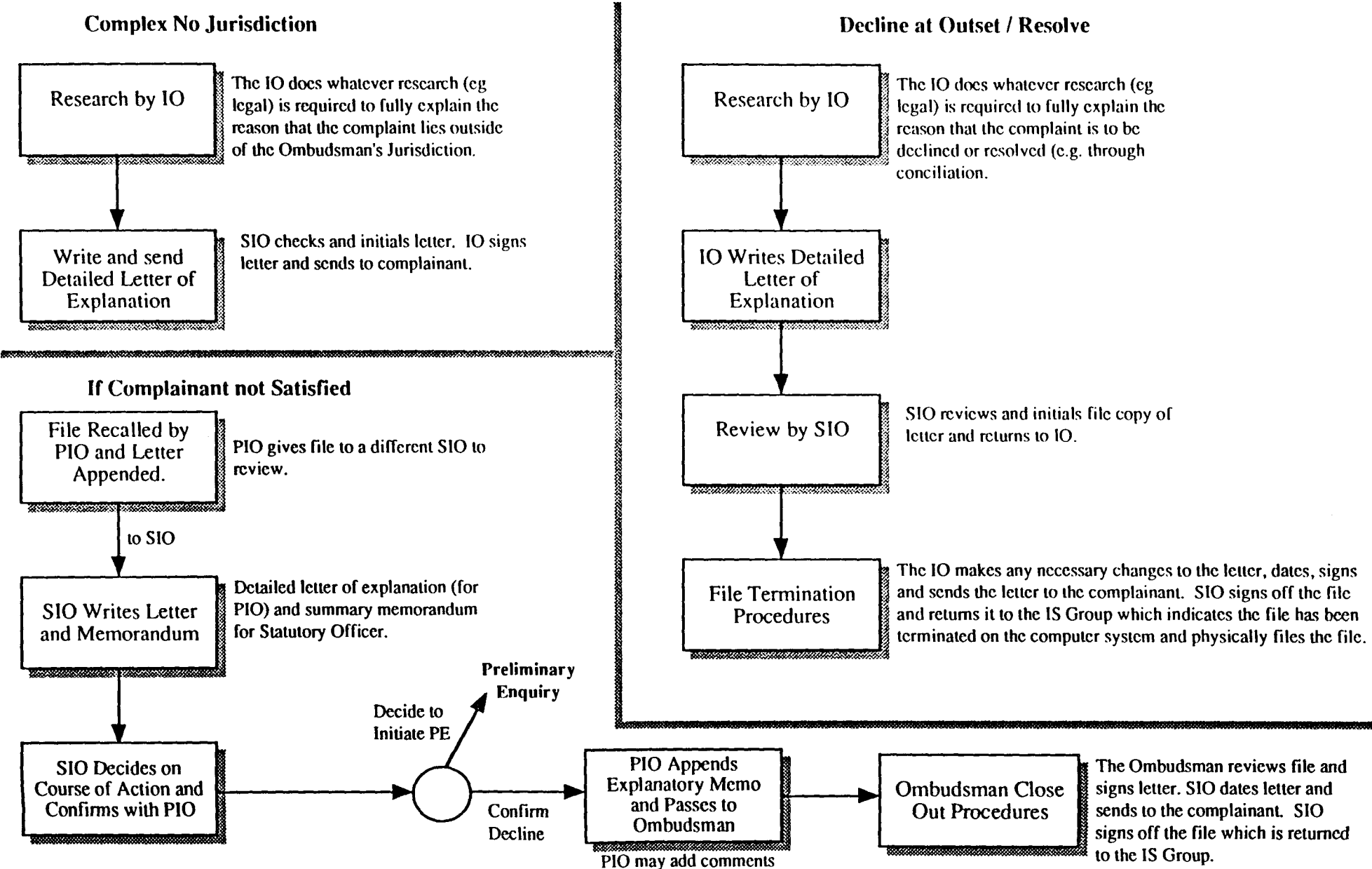
Position:	Team Assistants, 1-3
Report to:	Police Manager
Direct Reports:	None
Key Tasks:	<p>Team assistants, grades 1-3, will be provided to support the Police team in the following areas:</p> <ul style="list-style-type: none"> • word processing; • photocopying; • the formatting of reports; • answering telephones; • co-ordinating bookings for public awareness visits; • assisting in arrangements for section 19 hearings; • preparing simple correspondence (e.g. in response to simply declines); and • other support activities as required.

APPENDIX 3
GENERAL AREA COMPLAINT
HANDLING: CURRENT PROCEDURES
FLOWCHARTS

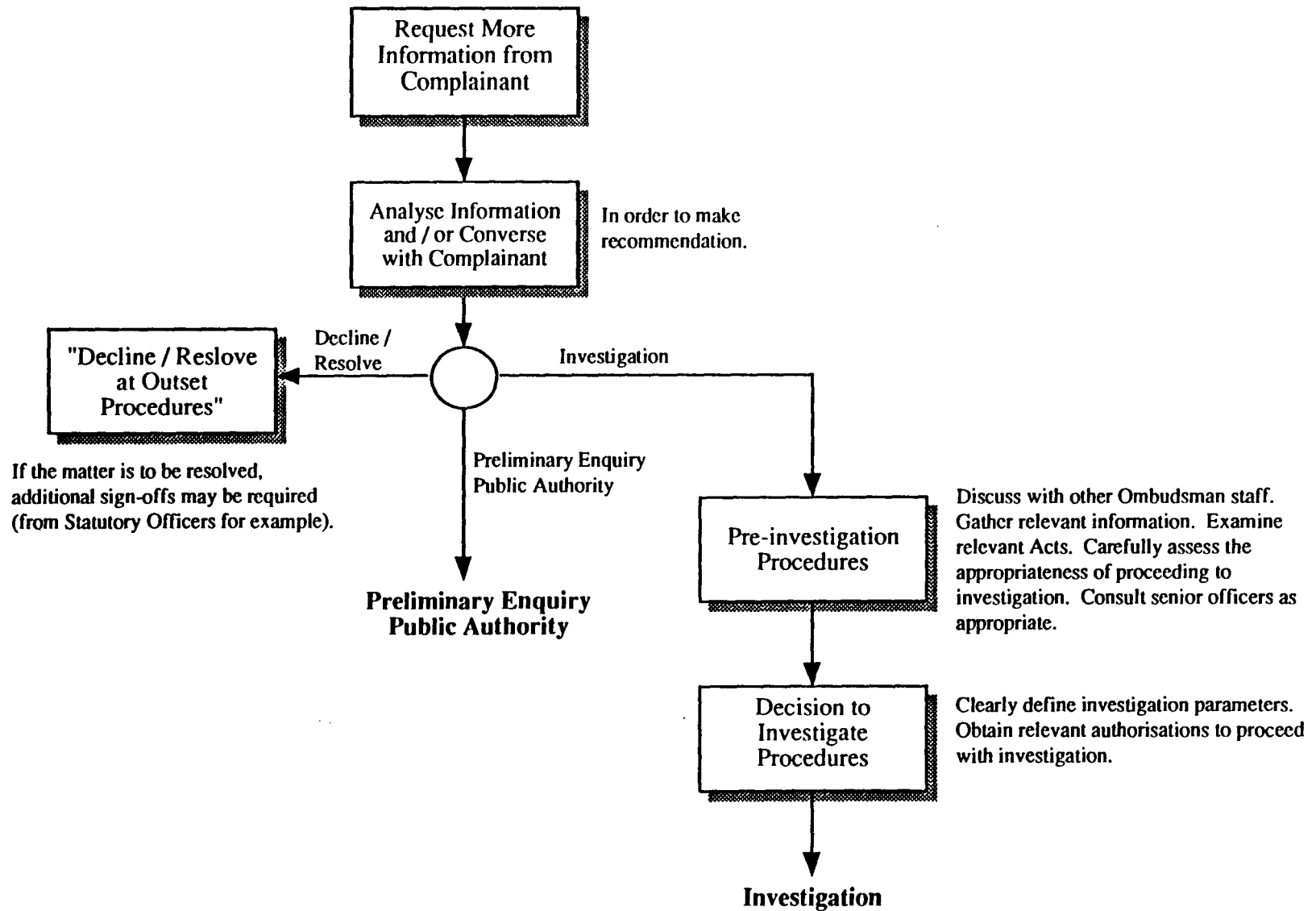
General Area Flowchart



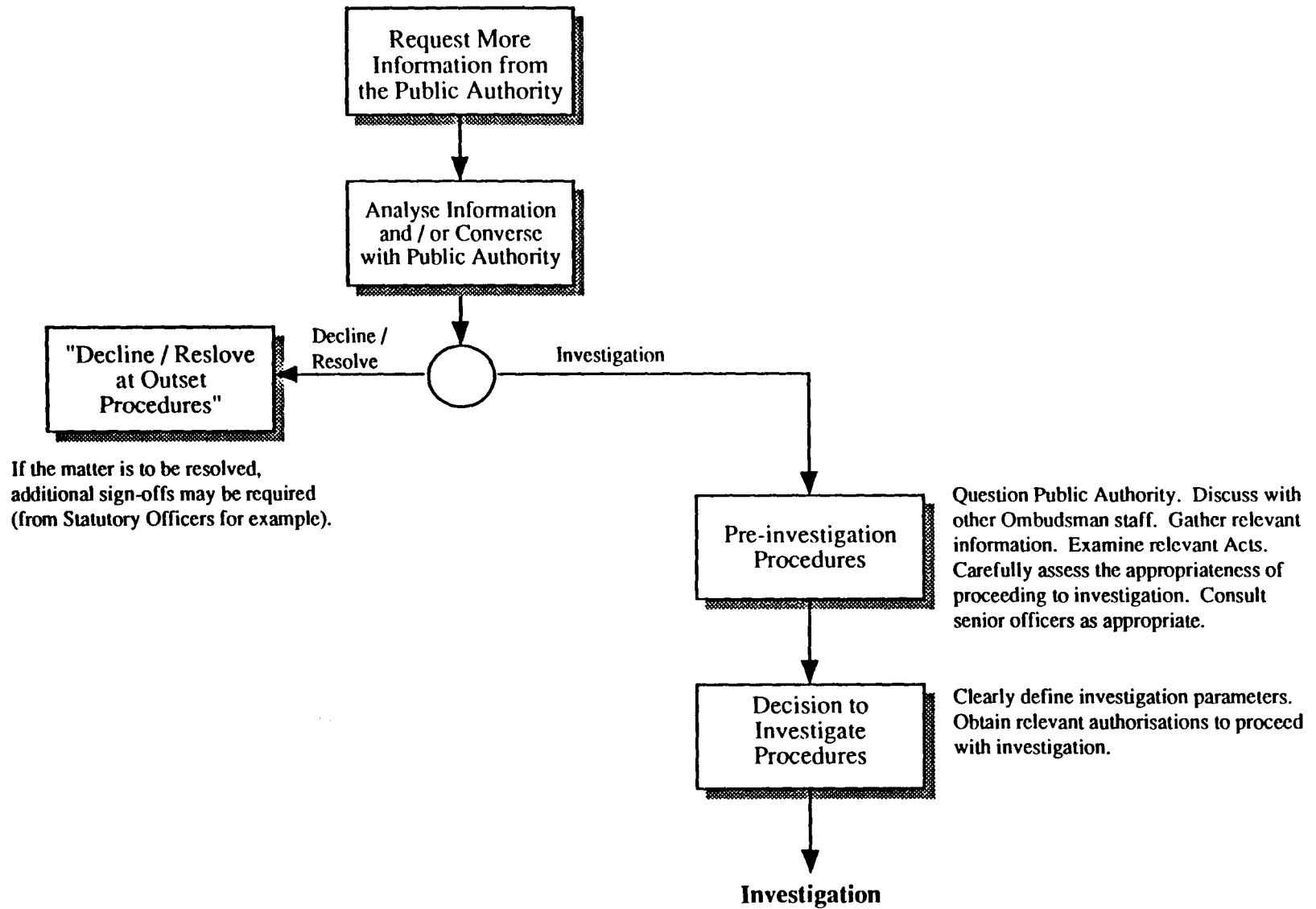
No Jurisdiction and Decline at Outset Flowchart



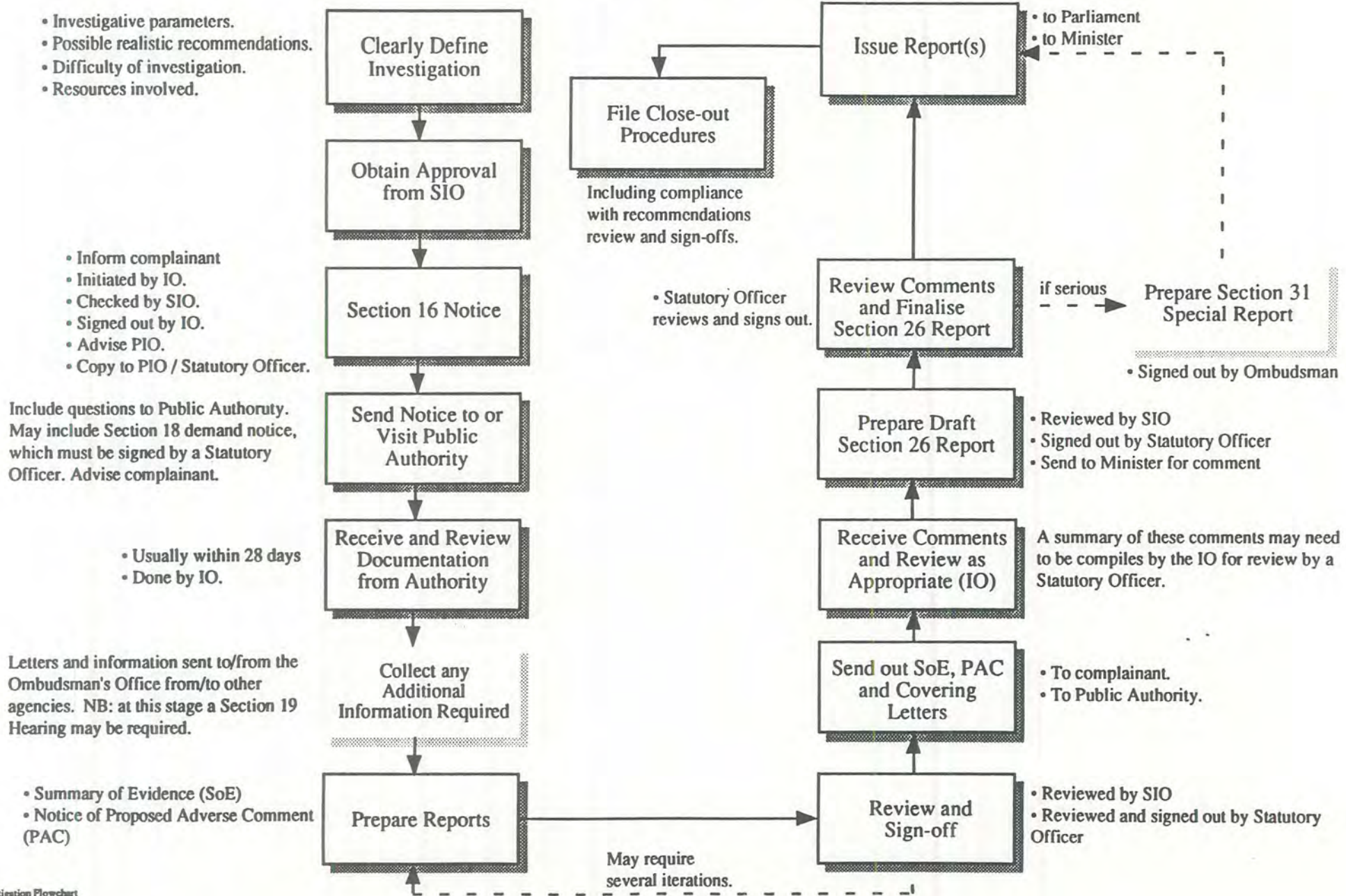
Preliminary Enquiry - Complainant



Preliminary Enquiry - Public Authority

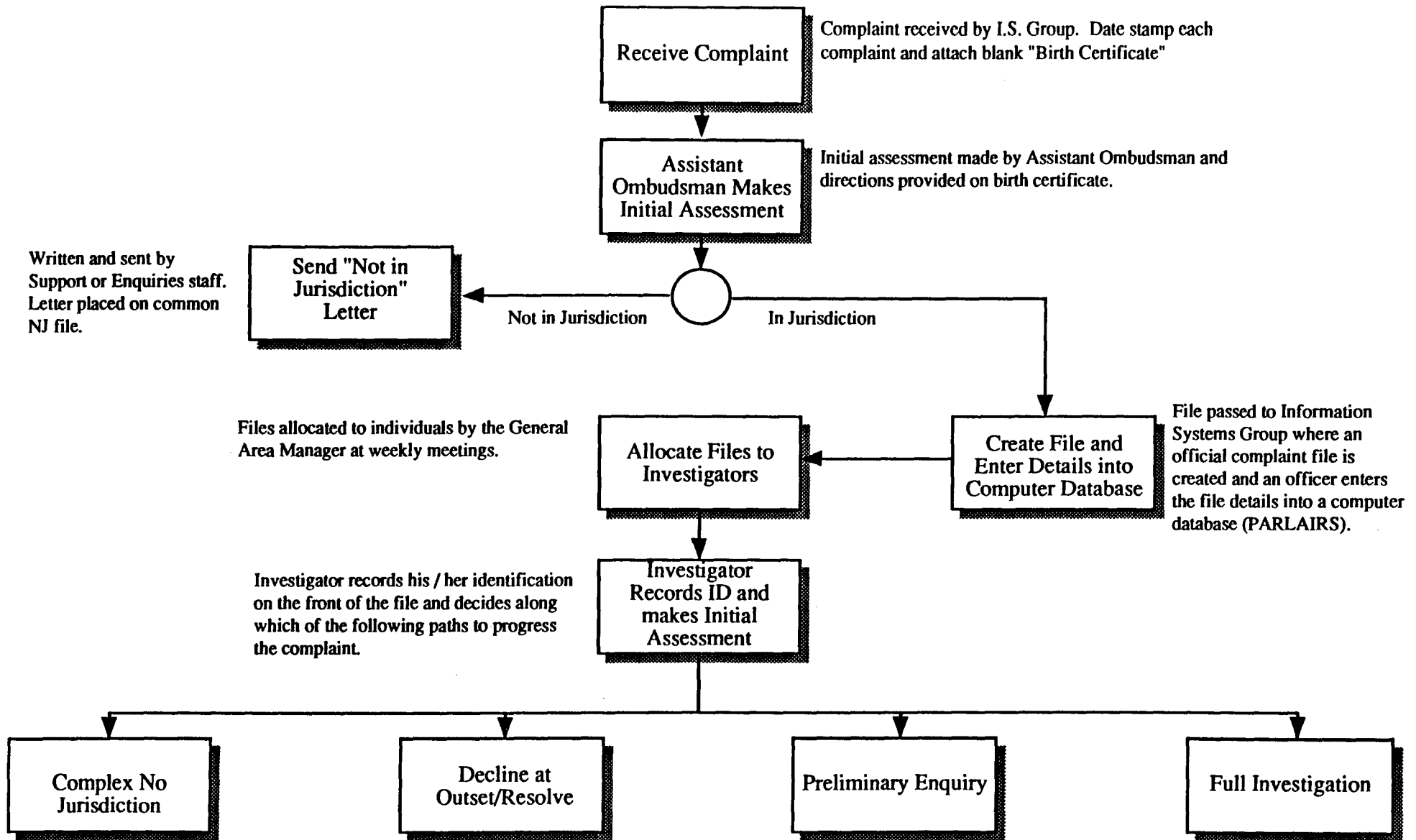


Investigation Flowchart

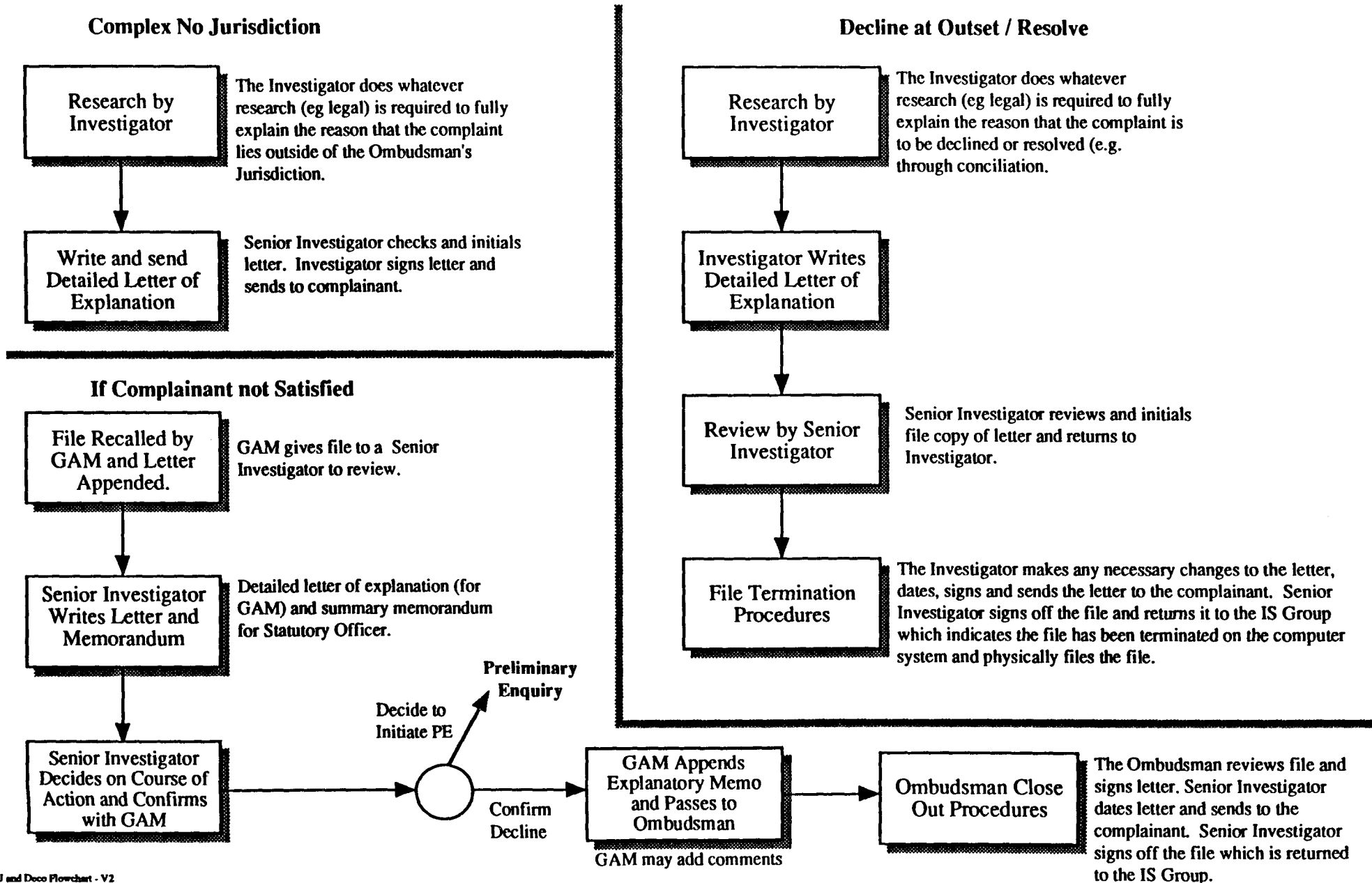


APPENDIX 4
GENERAL AREA COMPLAINT
HANDLING: RECOMMENDED
PROCEDURES FLOWCHARTS

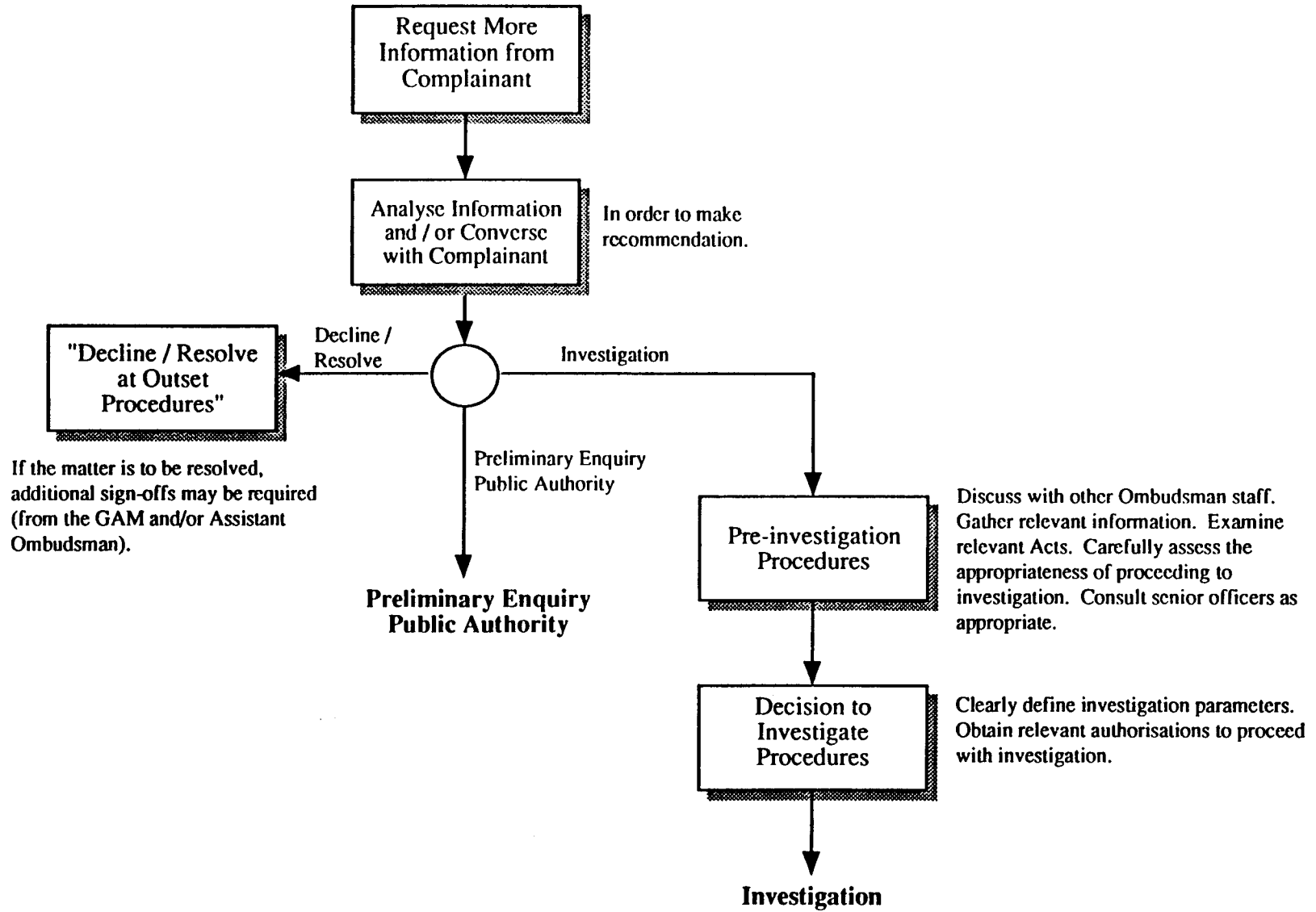
General Area Flowchart - V2



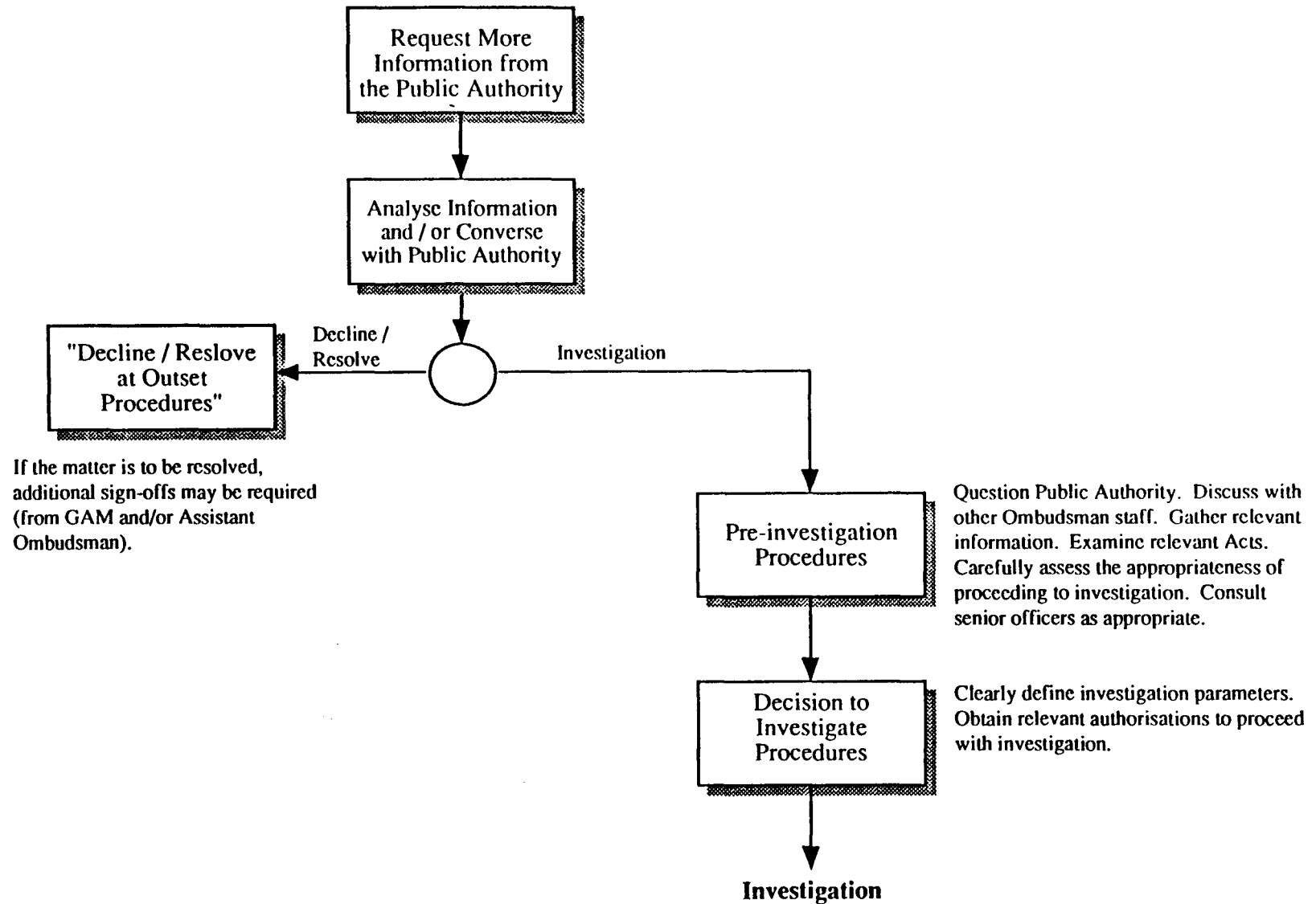
No Jurisdiction and Decline at Outset Flowchart - V2



Preliminary Enquiry - Complainant - V2



Preliminary Enquiry - Public Authority - V2



Investigation Flowchart - V2

- Investigative parameters.
- Possible realistic recommendations.
- Difficulty of investigation.
- Resources involved.

Clearly Define Investigation

Obtain Approval from GAM

Section 16 Notice

Send Notice to or Visit Public Authority

Receive and Review Documentation from Authority

Collect any Additional Information Required

Prepare Reports

File Close-out Procedures

Including compliance with recommendations review and sign-offs.

Issue Report(s)

Review Comments and Finalise Section 26 Report

Prepare Draft Section 26 Report

Investigator Receives Comments and Reviews as Appropriate

Send out SoE, PAC and Covering Letters

Review and Sign-off

- to Parliament
- to Minister

if serious

Prepare Section 31 Special Report

- Signed out by Ombudsman

- Reviewed by Senior Investigator
- Signed out by the Assistant Ombudsman
- Send to Minister for comment

A summary of these comments may need to be compiled by the Investigator for review by the Assistant Ombudsman.

- To complainant.
- To Public Authority.

- Reviewed by Senior Investigator
- Reviewed and signed out by the Assistant Ombudsman

- Inform complainant
- Initiated by Investigator.
- Checked by Senior Investigator.
- Signed out by Investigator.
- Advise GAM.

- Statutory Officer reviews and signs out.

Include questions to Public Authority. May include Section 18 demand notice, which must be signed by the Assistant Ombudsman. Advise complainant.

- Usually within 28 days
- Done by Investigator.

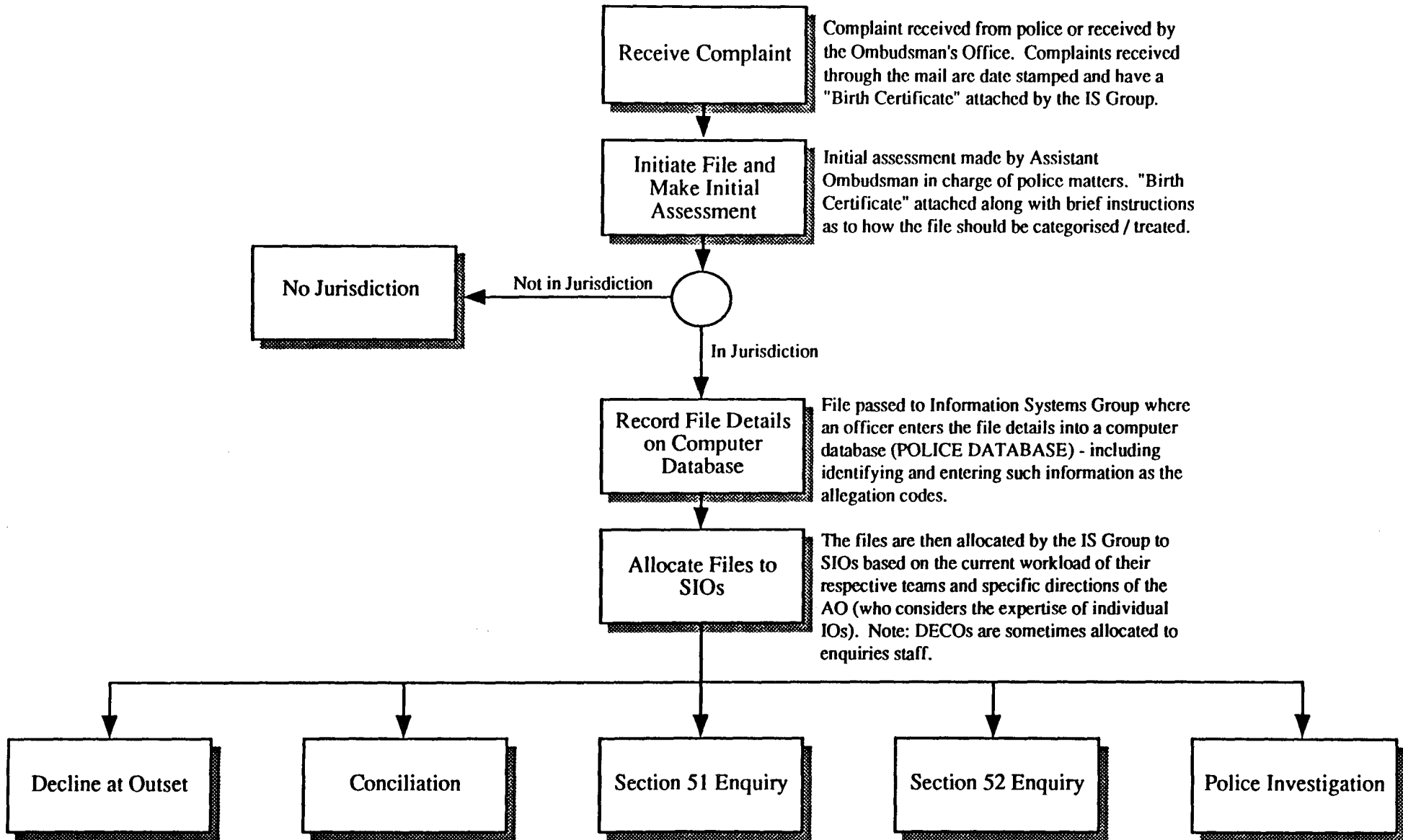
Letters and information sent to/from the Ombudsman's Office from/to other agencies. NB: at this stage a Section 19 Hearing may be required.

- Summary of Evidence (SoE)
- Notice of Proposed Adverse Comment (PAC)
- Keep complainant informed.

May require several iterations.

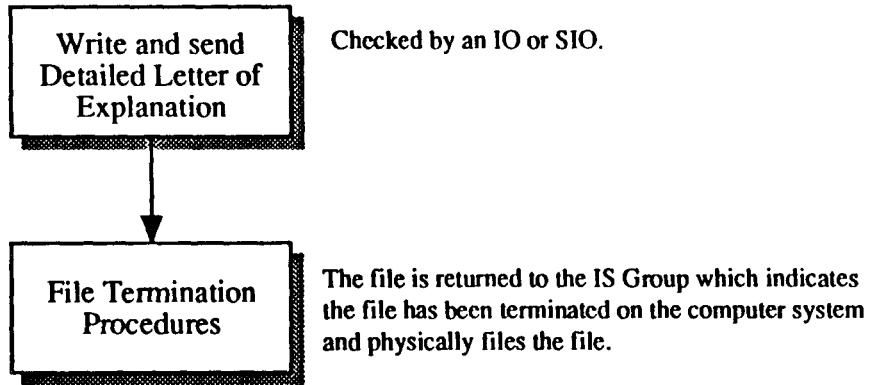
APPENDIX 5
POLICE COMPLAINT HANDLING:
CURRENT PROCEDURES FLOWCHARTS

Police Complaint Flowchart

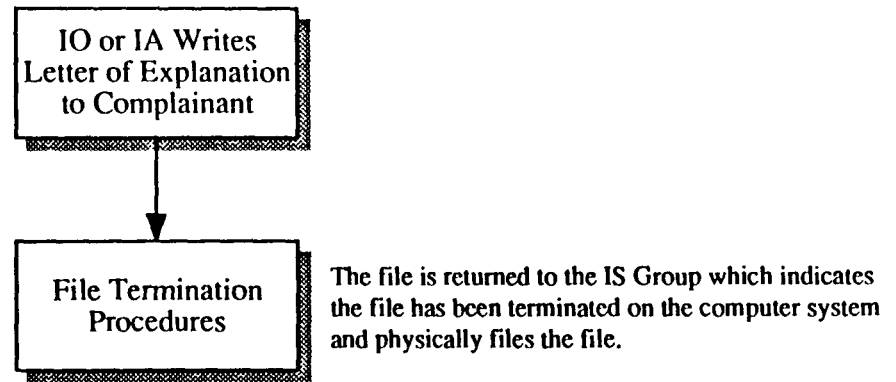


Police - No Jurisdiction, Decline at Outset

No Jurisdiction

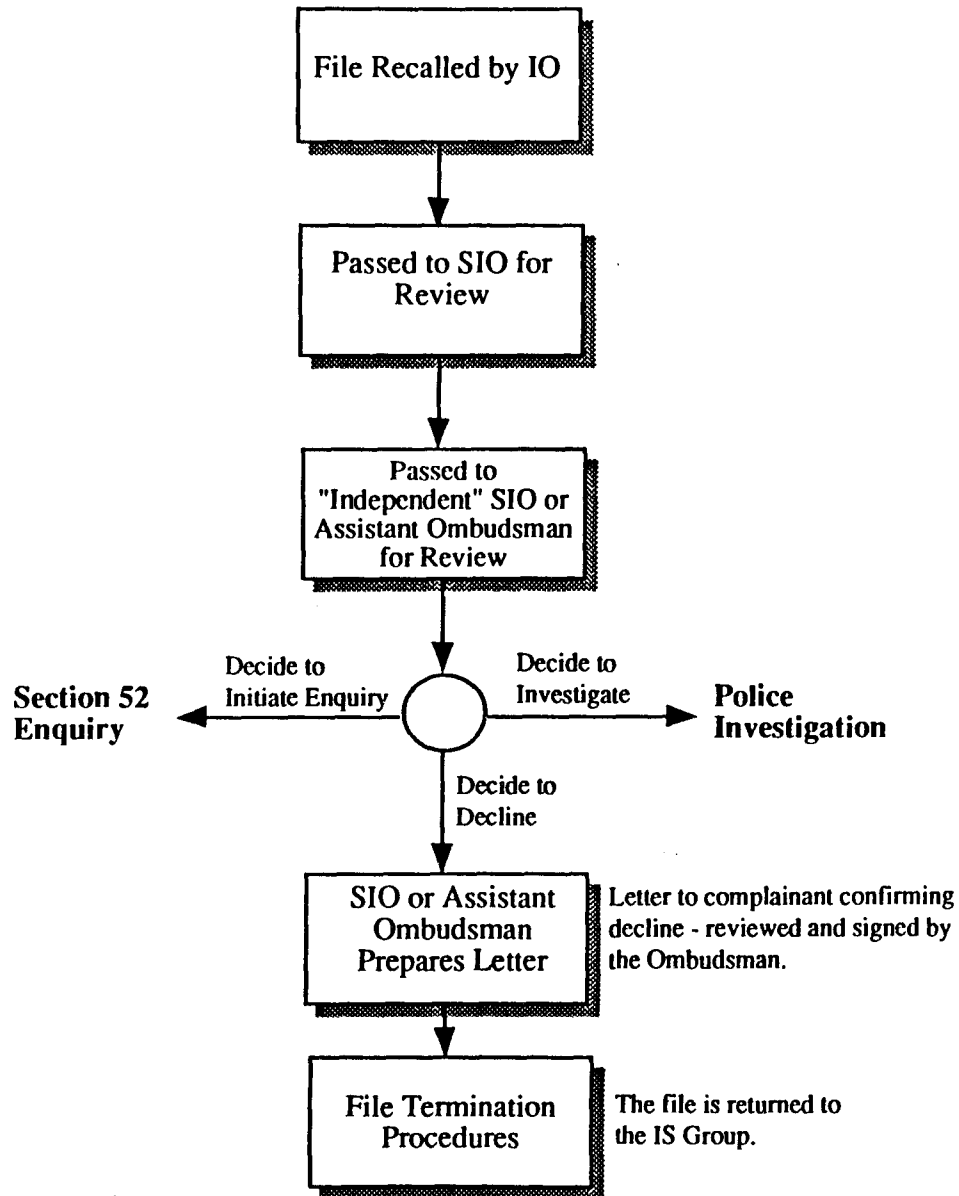


Decline at Outset Procedures

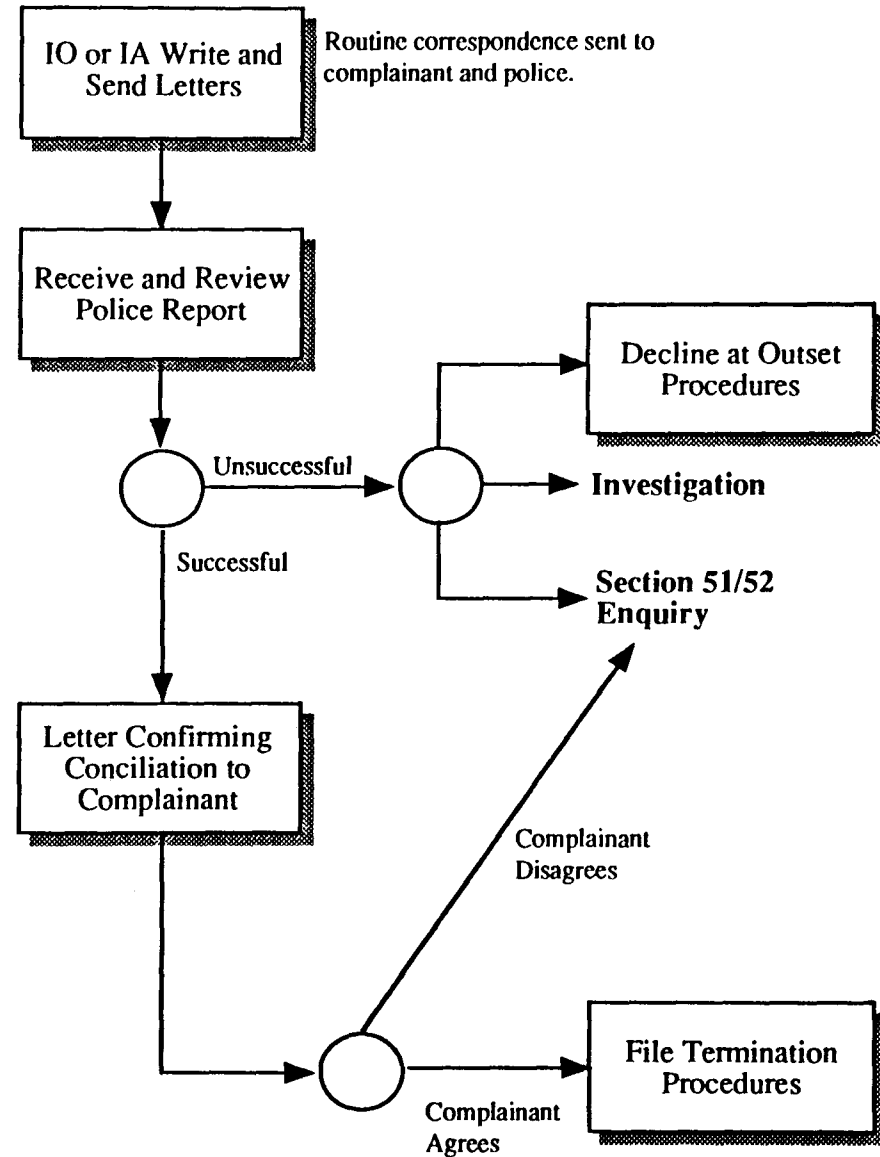


Police - Conciliation / Complainant Not Satisfied

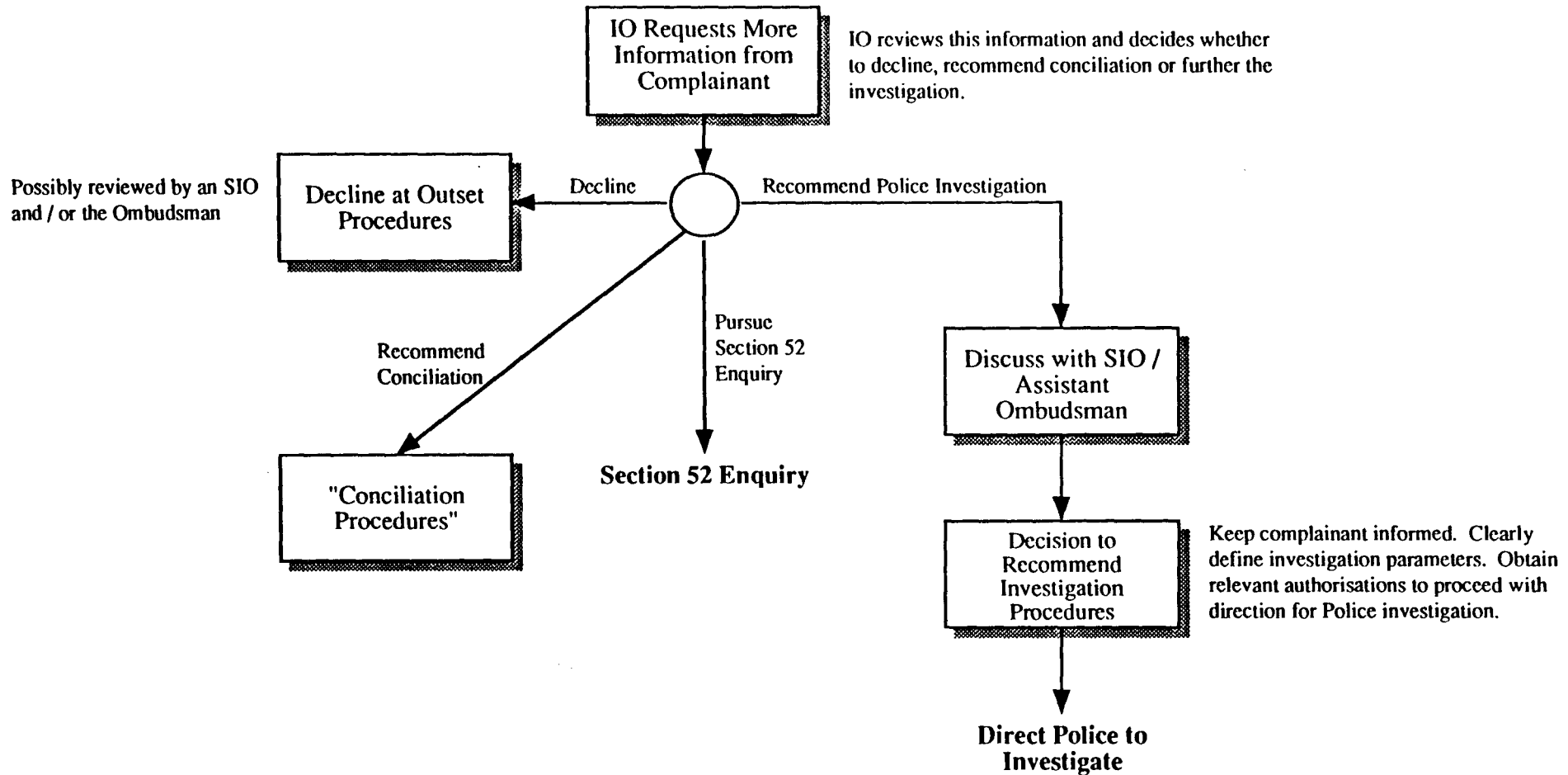
Complainant not Satisfied Procedures



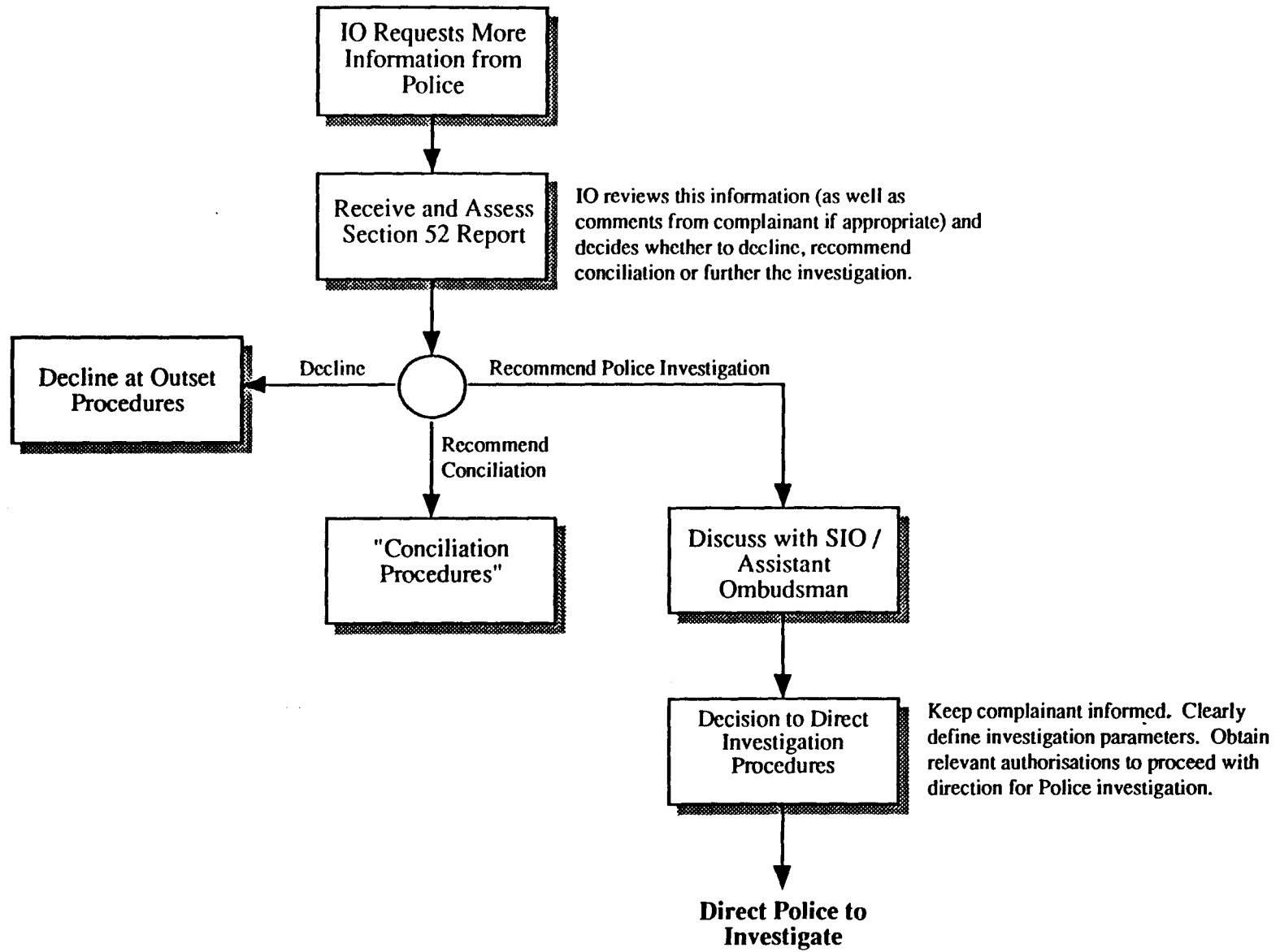
Conciliation Procedures



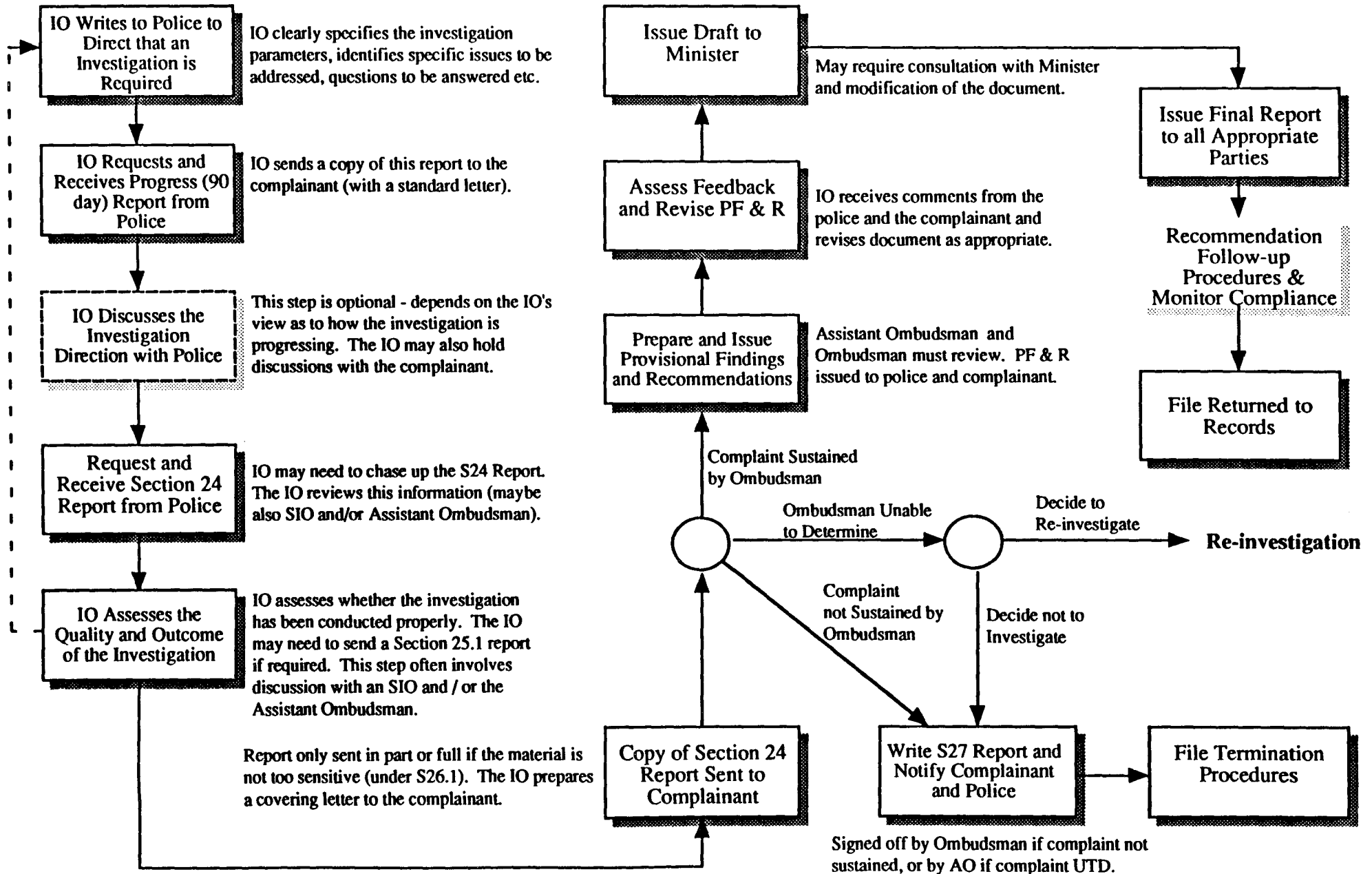
Section 51 Enquiry Flowchart



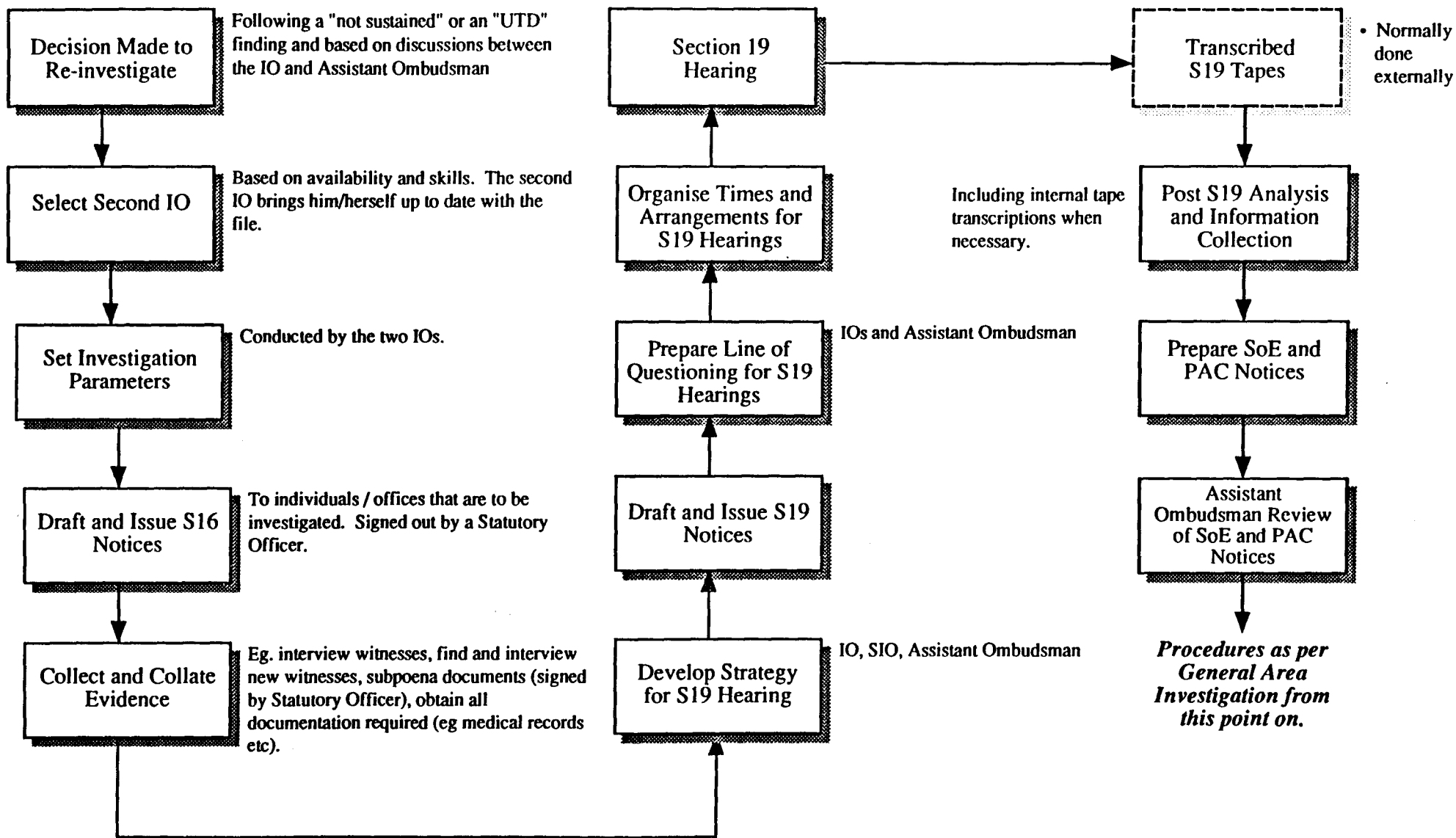
Section 52 Enquiry Flowchart



Police Investigation

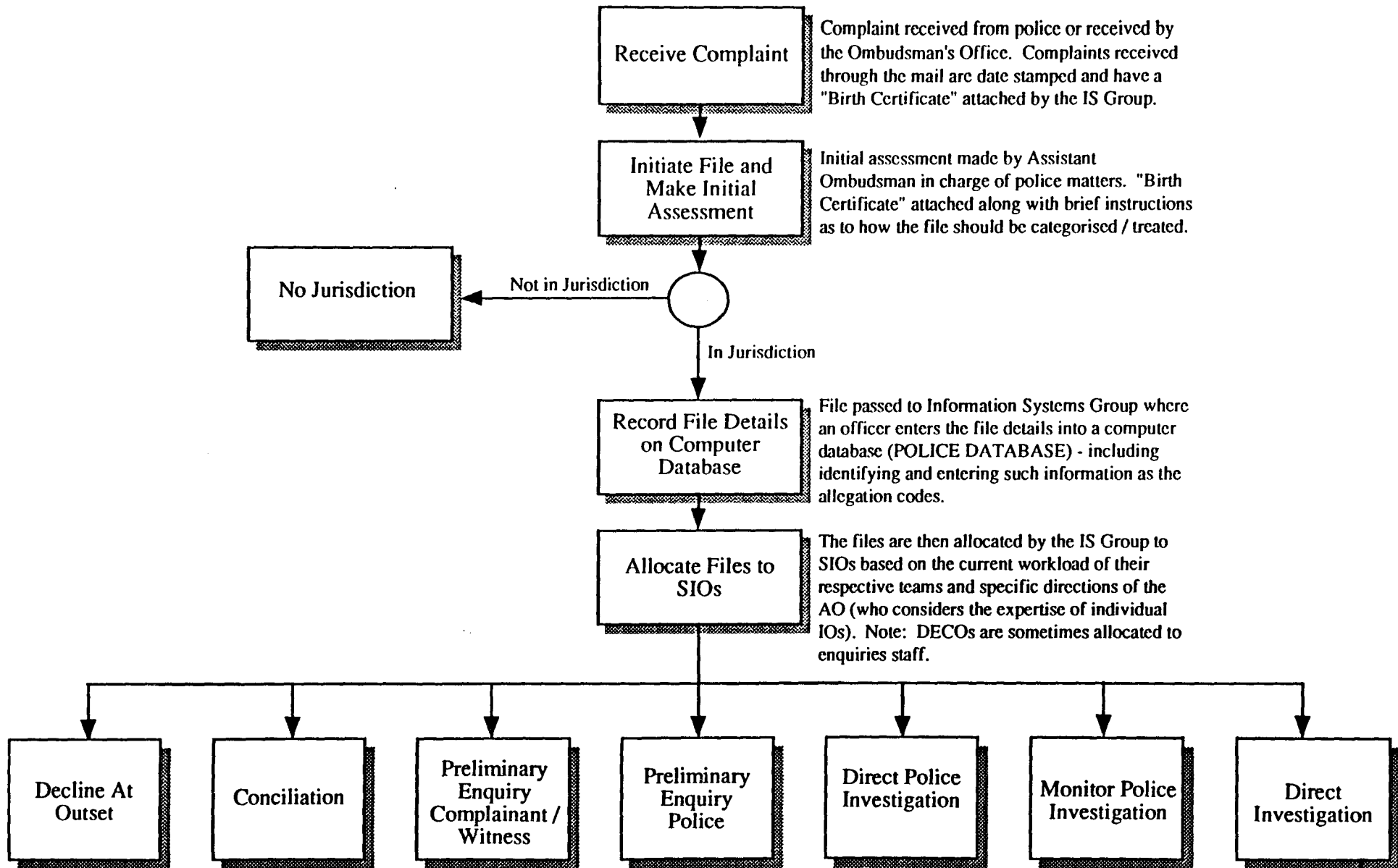


Re-investigation



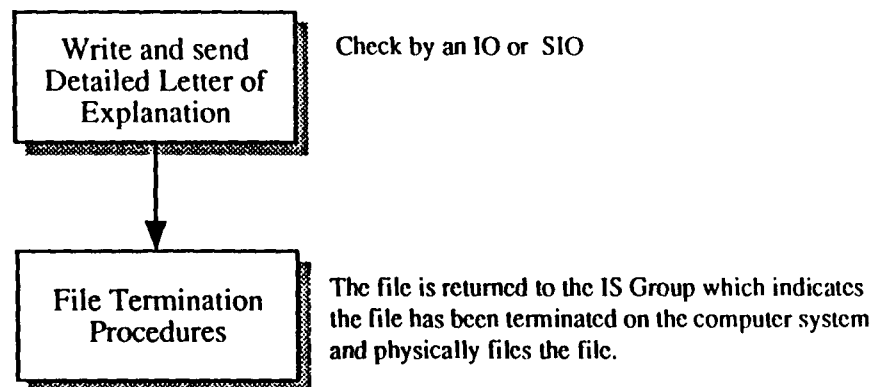
APPENDIX 6
POLICE COMPLAINT HANDLING:
RECOMMENDED PROCEDURES
FLOWCHARTS

Police Complaint Flowchart - V2

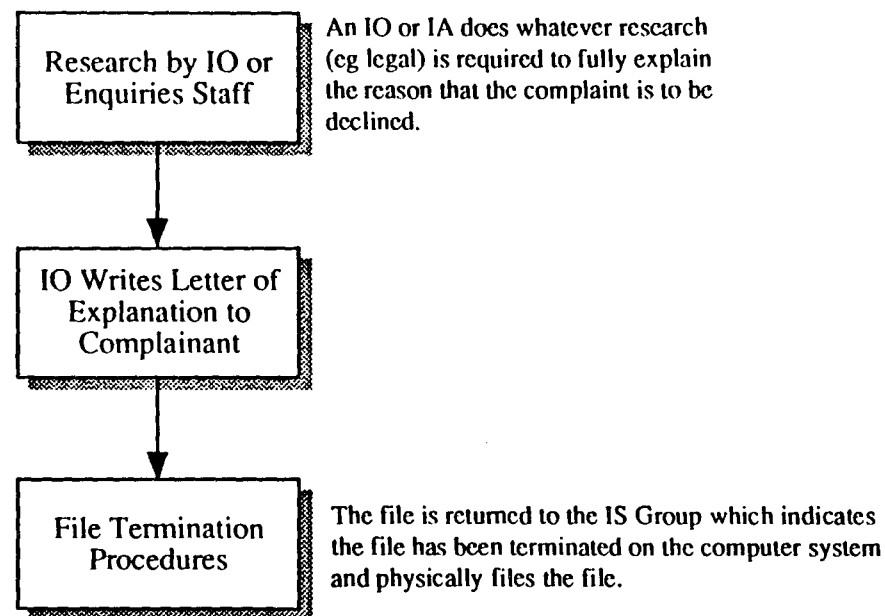


Police - No Jurisdiction, Decline at Outset - V2

No Jurisdiction

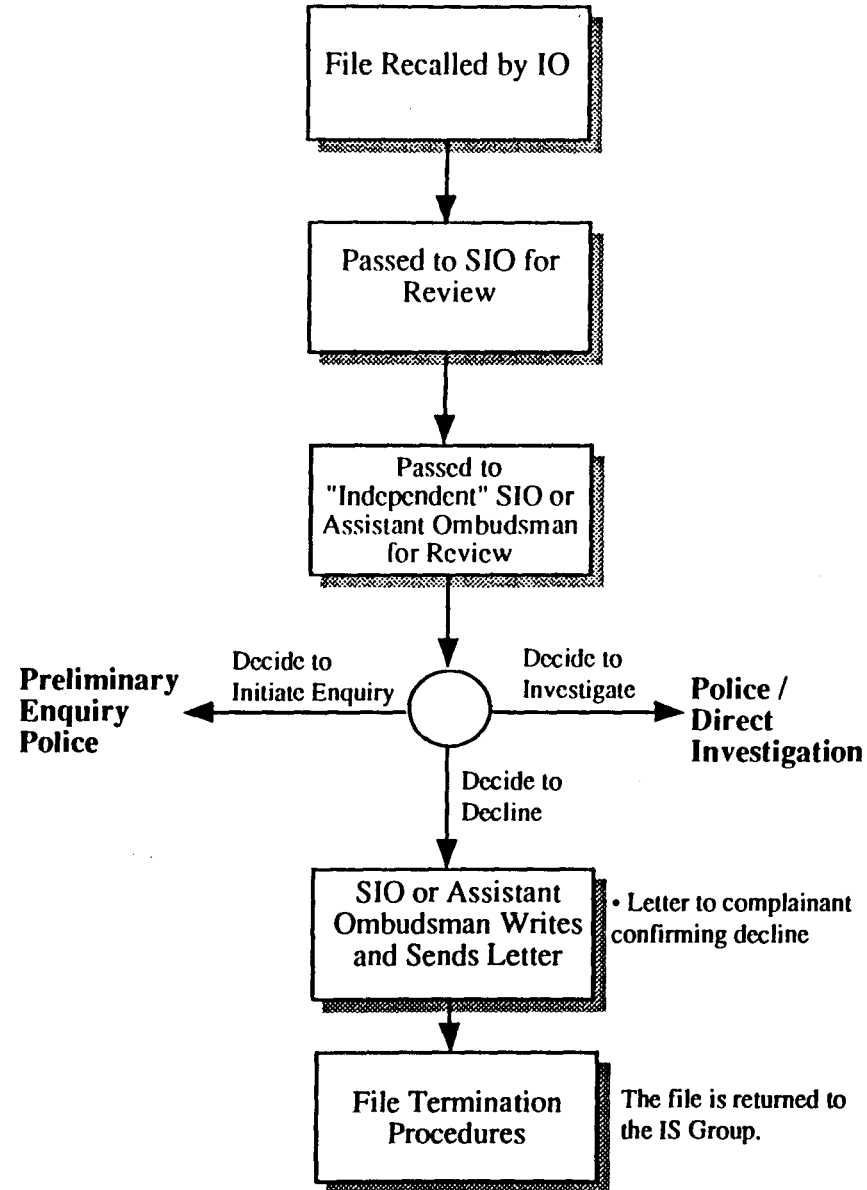


Decline at Outset Procedures



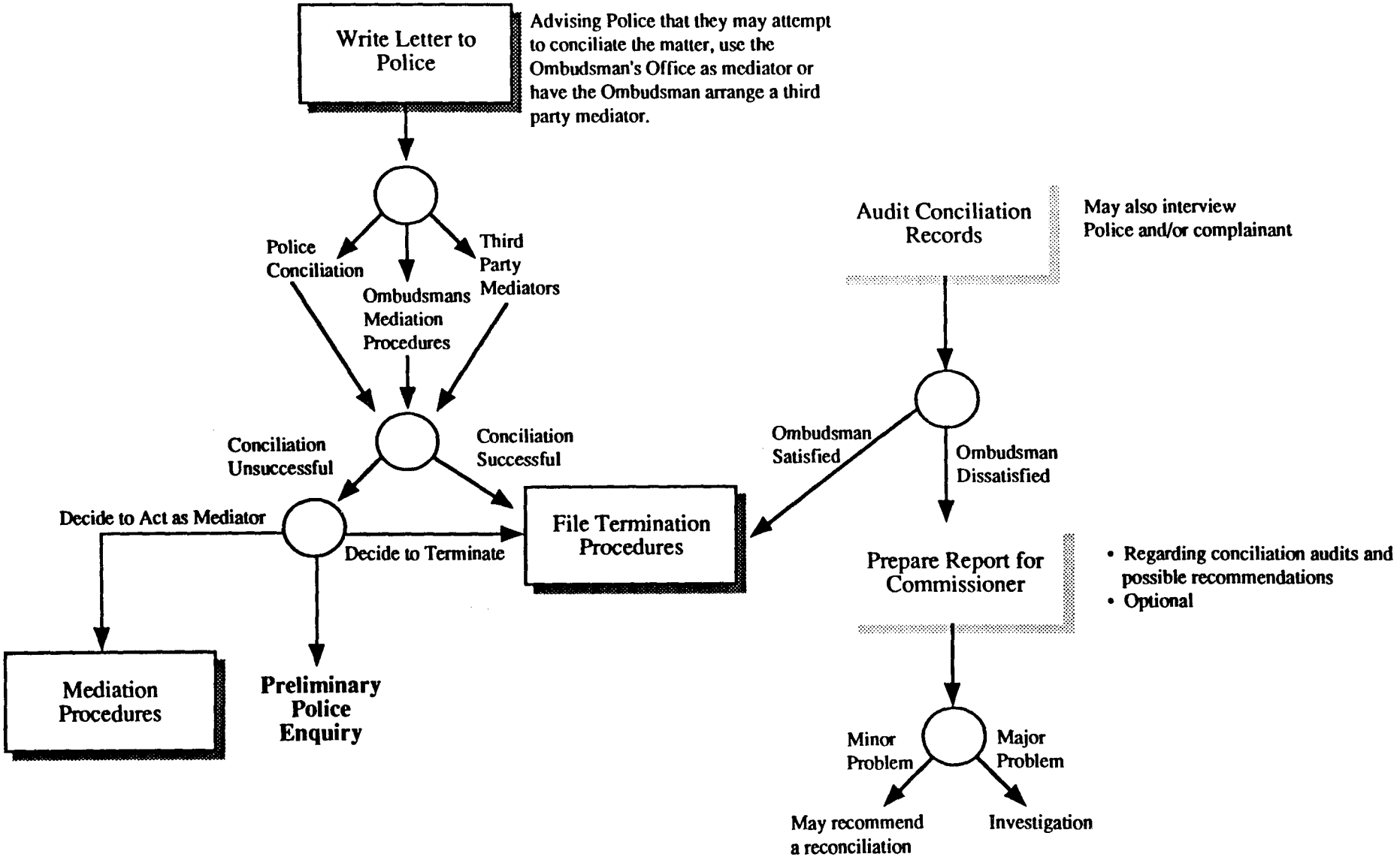
Police - Complainant Not Satisfied - V2

Complainant not Satisfied Procedures

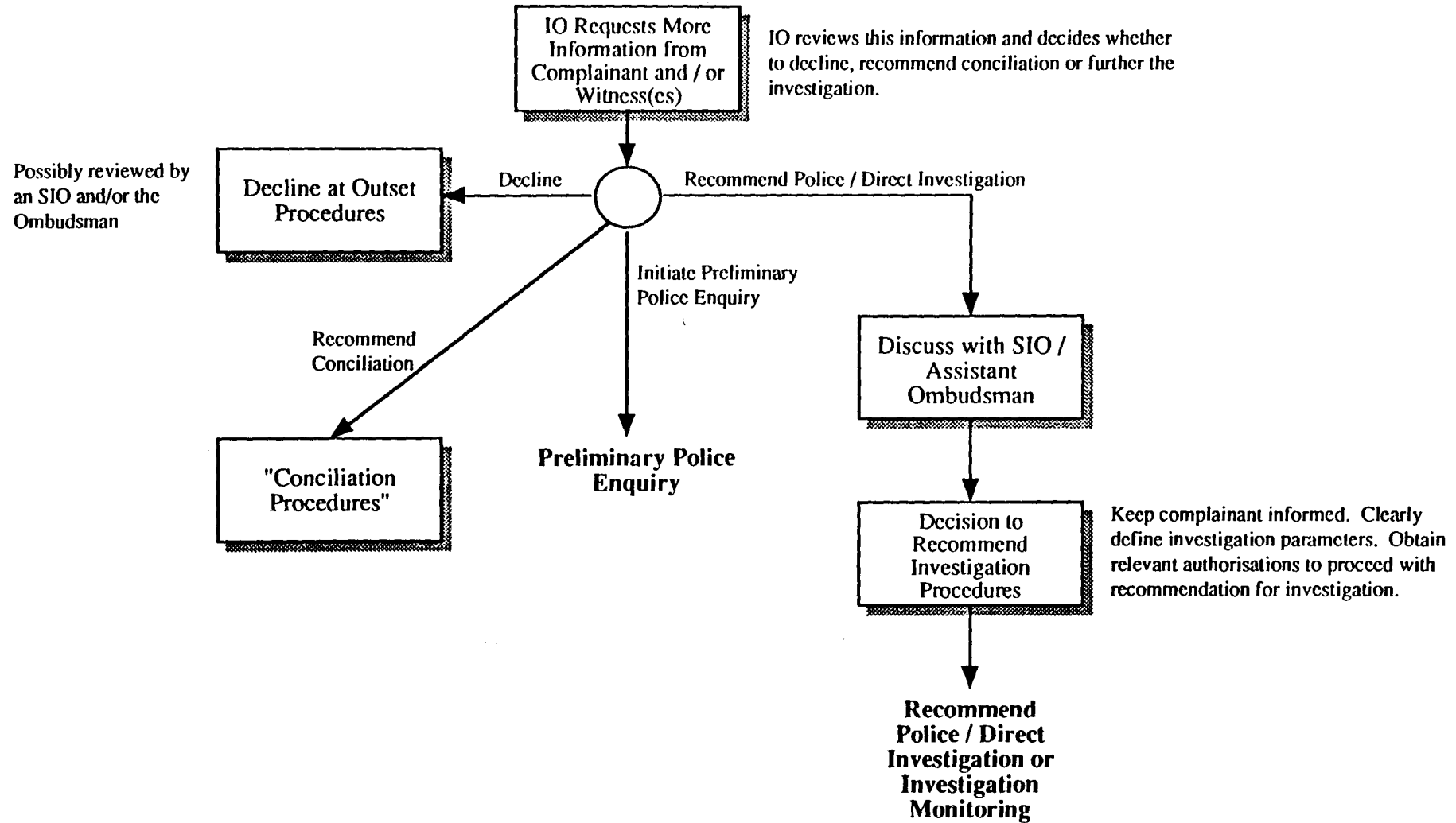


Police - Conciliation Procedures - V2

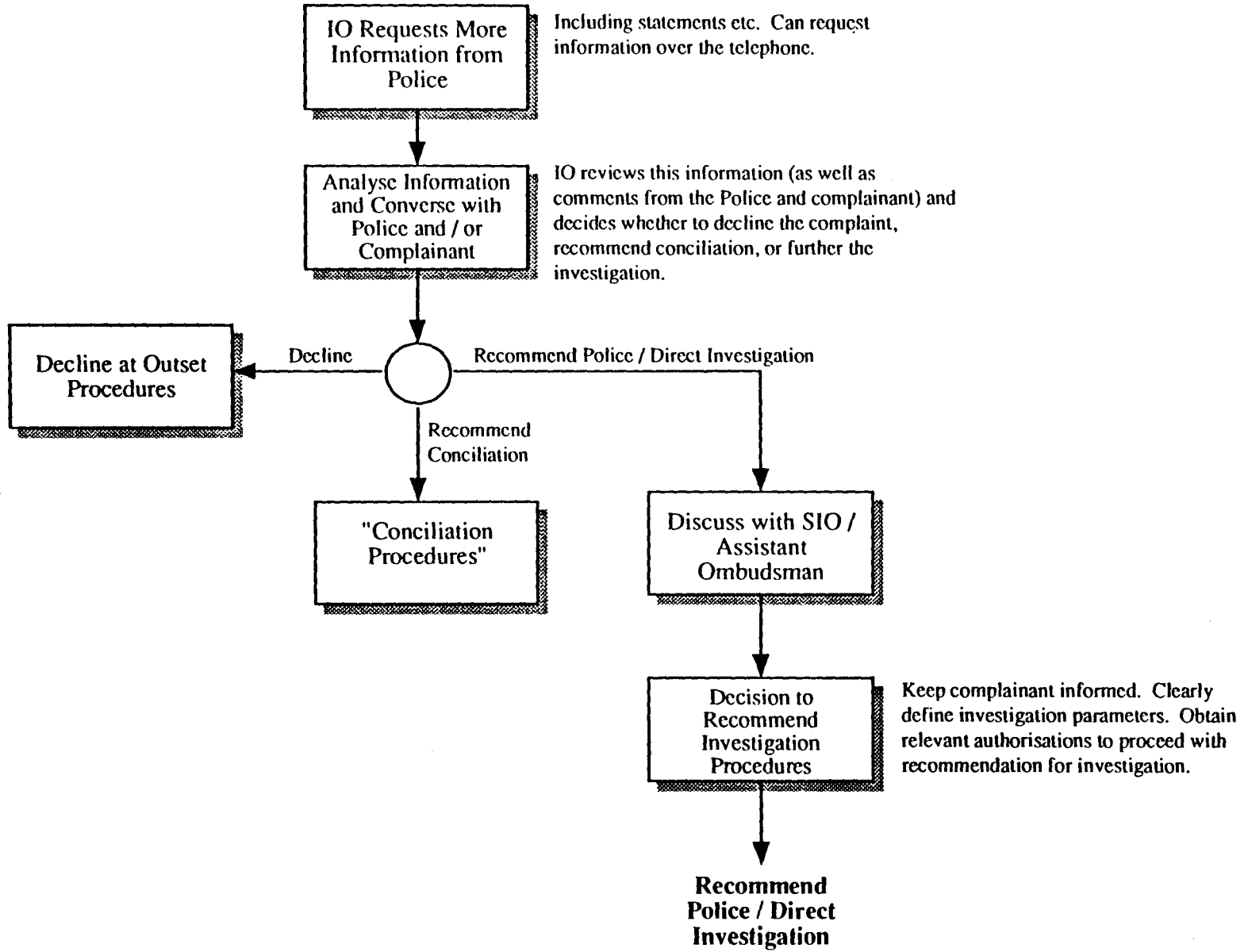
Conciliation Procedures



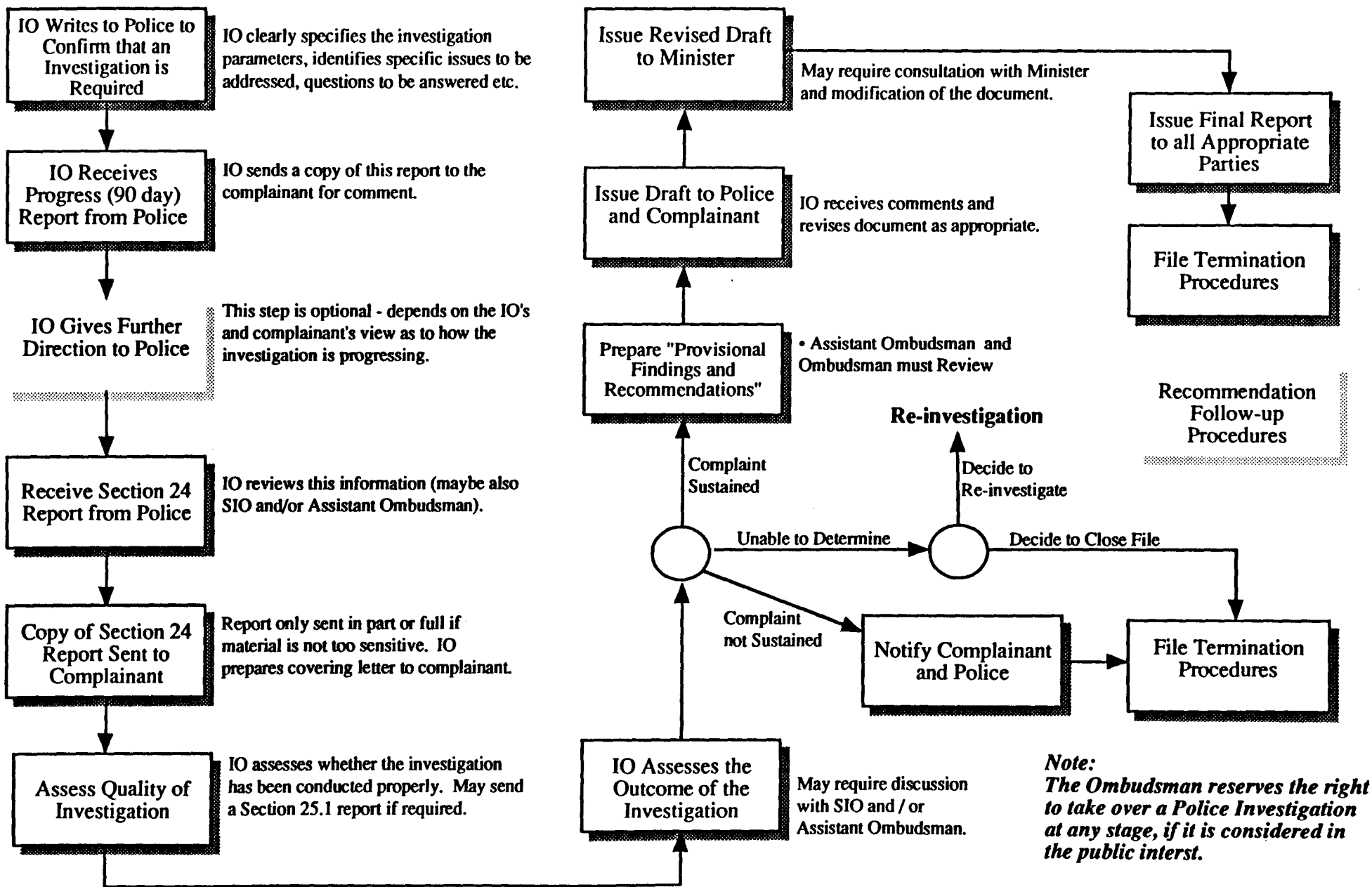
Preliminary Enquiry - Complainant and / or Witness(es) - V2



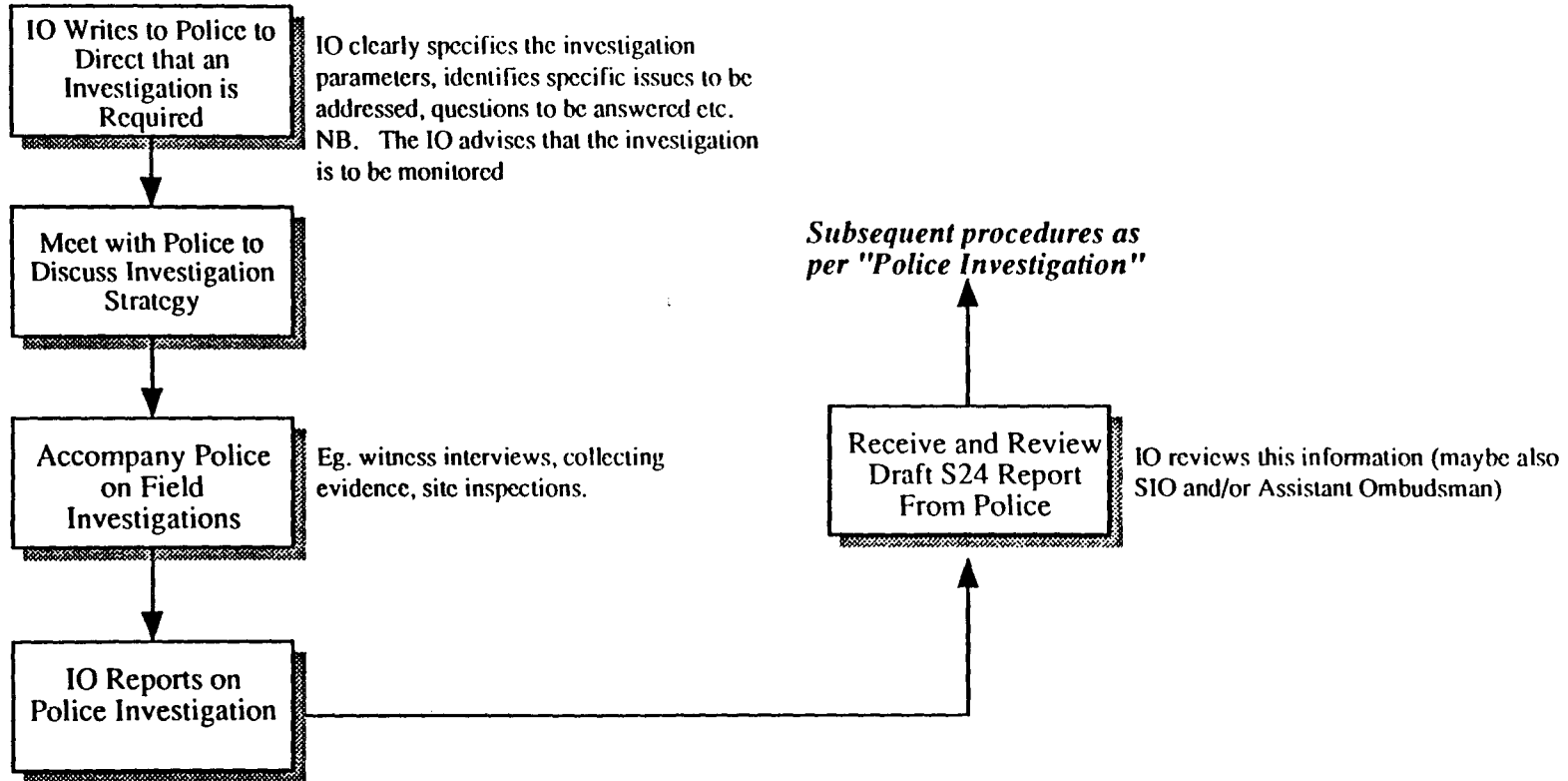
Preliminary Enquiry - Police - V2



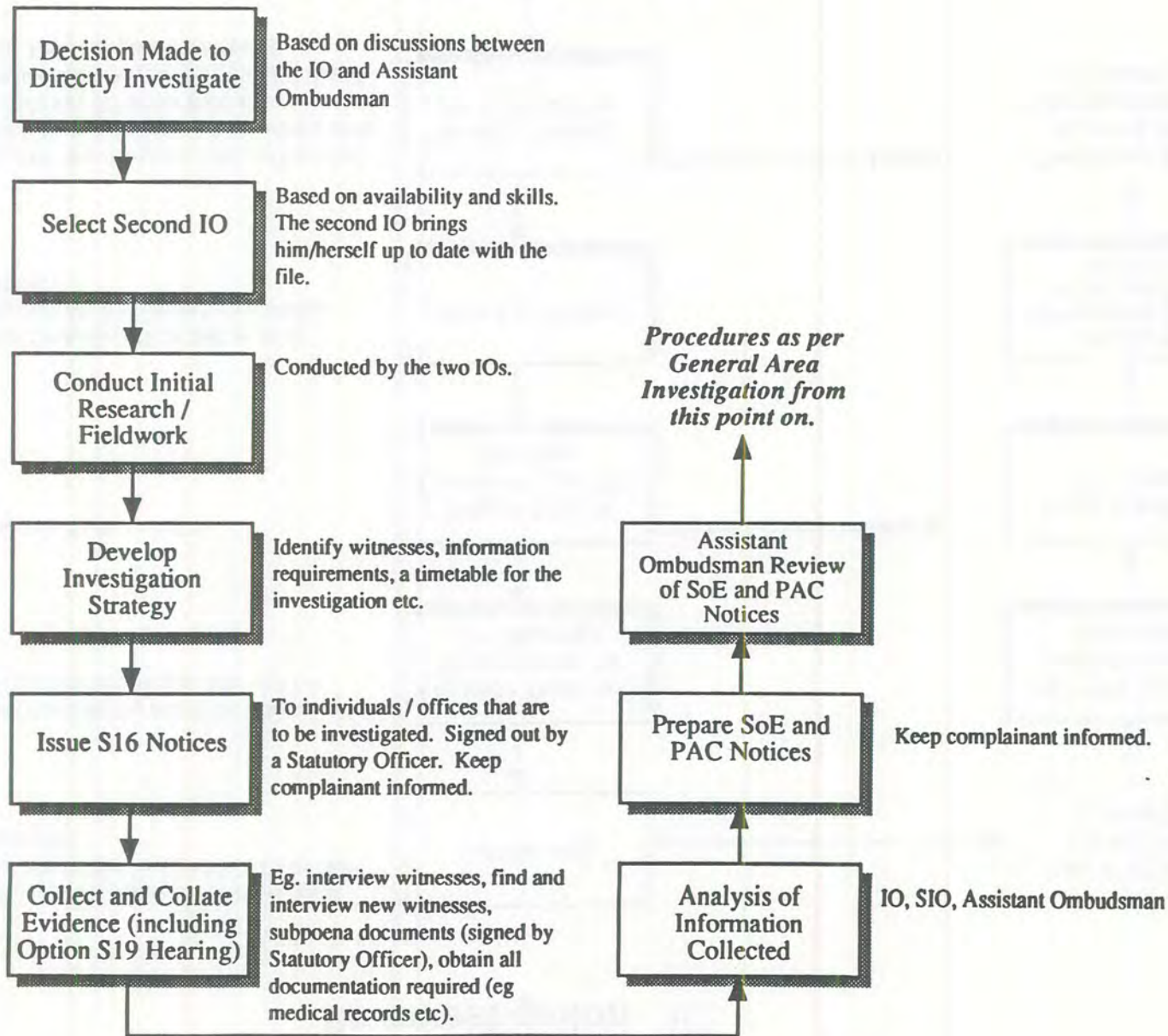
Police Investigation - V2



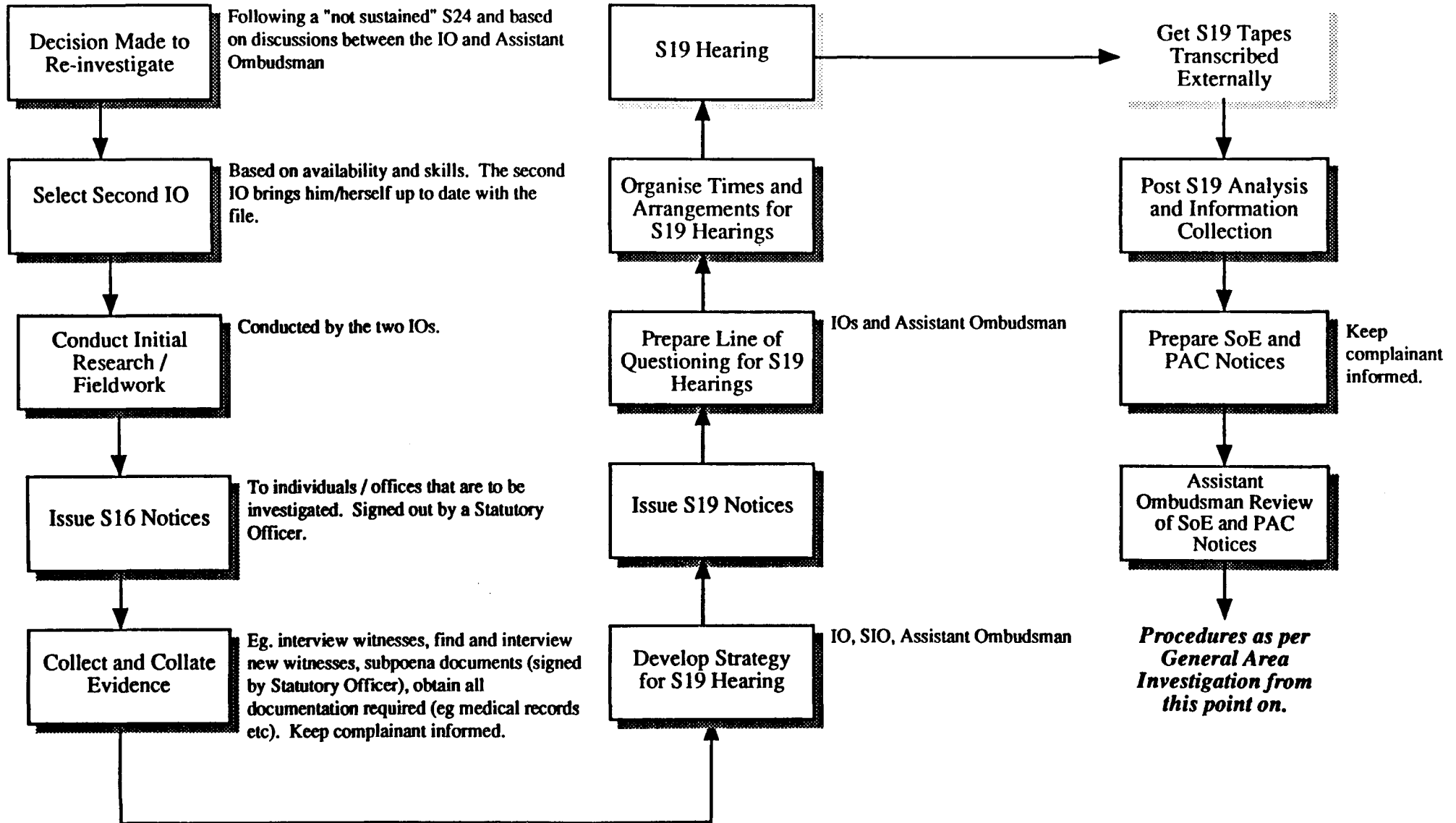
Monitor Police Investigation - V2



Direct Investigation - V2



Re-investigation - V2



APPENDIX 7
COMPARATIVE PERFORMANCE
MEASURES - 1989 TO 1993

COMPARATIVE PERFORMANCE MEASURES - 1989 TO 1993 CALCULATIONS AND ASSUMPTIONS

This Appendix provides a detailed comparison of various financial and statistical information for the Ombudsman's office for the 1988/89 to 1992/93 financial years. Various comparative measures of efficiency and performance have been summarised in Section 4 of this report and appropriate commentary made thereto. These measures have been shaded in the attached analysis.

The detailed analysis, therefore, provides financial and other statistical information supporting the measures shown in the main body of the report. Set out below are the sources of information used in compiling this analysis and a number of assumptions used in determining the various measures used.

Details for the 1988/89 to 1991/92 years were sourced from the annual reports of the office for those years. Details for the year ending 30 June 1993 were provided by the Ombudsman's Office.

There are certain discrepancies between some of the numbers extracted from the annual reports and those presented by the Ombudsman in his two submissions to the Joint Committee as a result of complaint number reconciliations after the annual reports were produced. However, these discrepancies are insignificant and will have only a negligible effect on the measures calculated.

Calculations are based on a number of estimates and assumptions, particularly in regard to the average number of full-time investigation staff used to determine the relative workloads of each investigation staff member over time.

As a result of the complexities involved in determining accurate average numbers of effective full-time investigation staff over the period (due to staff turnover, positions remaining unfilled at certain times during the year and the fact that not all investigation staff would have had full investigation workload responsibilities at all times), average numbers shown have been based on estimates only and are not intended to provide an accurate record of past average complaint handling numbers. However, although conclusions should not be reached from these numbers as far as relative complaint handling efficiencies are concerned, we believe that the numbers shown do provide a reasonable indication of complaint trends over the period under review.

Notes and Assumptions

- staffing levels shown in the analysis and used in our calculations are total approved establishment levels effective as at 30 June each year (1993 - as at the time of our report). These numbers include staff on leave without pay and vacant positions unfilled;
- average complaint numbers shown per investigation staff are average numbers per investigation officer - i.e. senior investigation officers and investigation officer. Inquiries clerks, investigative assistants, FOI and TIU investigation staff have not been included in determining these figures;
- investigation officer numbers are assumed to have remained steady throughout the period - total approved establishment levels have remained steady during the period;

- average costs per employee and complaint have been determined using employee related expenses and working and maintenance expenses only. Capital expenditure, depreciation and certain other costs have been excluded for consistency

RECURRENT FUNDING

The level of recurrent funding provided by Treasury has been adjusted to reflect 'one-off' and other abnormal items for comparative purposes. The following adjustments have been made:

	1988/89	1989/90	1990/91	1991/92	1992/93
Total Consolidated Fund					
Repayment	3,470	4,857	4,107	4,246	4,237
Less: Adjustments for Comparative Purposes:					
FOI		(123)	(123)	(123)	(123)
Fit-out		(971)			
Rent Provision		(155)			
Supplementation			(173)	(67)	
Capital Expenditure	(39)		(51)		
	<u>3,431</u>	<u>3,608</u>	<u>3,760</u>	<u>4,056</u>	<u>4,114</u>
Annual Increase		5.2%	4.2%	7.8%	1.4%

Funding for the FOI Unit, which was first introduced in the 1989/90 year, has been eliminated.

In addition, a capital works payment of \$971,000 for the office fitout in the Coopers & Lybrand Building and a one-off rental payment of \$155,000 was provided by NSW Treasury upon the relocation of the office.

Special supplementations were also provided by Treasury in 1990/91 and 1991/92 for various additional expenditure including the prisons inquiry, special litigation and the implementation of accrual accounting.

NSW OMBUDSMAN - COMPARATIVE ANALYSIS - 1989 TO 1993

	1988/89	1989/90	1990/91	1991/92	1992/93
Depts & Authorities:					
Brought forward	227	200	209	336	288
Received	969	1,111	1,173	1,125	945
Finalised	(996)	(1,102)	(1,046)	(1,173)	(1,184)
Carried Forward	200	209	336	288	49
Investigated	54	34	24	33	19
%	5.4%	3.1%	2.3%	2.8%	1.6%
Declined at Outset	259	393	349	508	523
Declined after Preliminary	479	460	510	479	248
Total Declined	738	853	859	987	771
% Declined - Outset	26.0%	35.7%	33.4%	43.3%	44.2%
% Declined - Preliminary	48.1%	41.7%	48.8%	40.8%	20.9%
% Declined - Total	74.1%	77.4%	82.1%	84.1%	65.1%
Local Councils:					
Brought forward	163	172	177	180	115
Received	633	716	716	629	638
Finalised	(624)	(711)	(713)	(694)	(534)
Carried Forward	172	177	180	115	219
Investigated	30	41	14	15	7
%	4.8%	5.8%	2.0%	2.2%	1.3%
Declined at Outset	157	209	262	371	295
Declined after Preliminary	347	358	342	242	190
Total Declined	504	567	604	613	485
% Declined - Outset	25.2%	29.4%	36.7%	53.5%	55.2%
% Declined - Preliminary	55.6%	50.4%	48.0%	34.9%	35.6%
% Declined - Total	80.8%	79.7%	84.7%	88.3%	90.8%
Prisons					
Brought forward	57	91	61	186	126
Received	321	310	520	393	396
Finalised	(287)	(340)	(395)	(453)	(296)
Carried Forward	91	61	186	126	226
Investigated	11	12	10	25	7
%	3.8%	3.5%	2.5%	5.5%	2.4%
Declined at Outset	85	91	137	165	130
Declined after Preliminary	140	175	205	209	133
Total Declined	225	266	342	374	263
% Declined - Outset	29.6%	26.8%	34.7%	36.4%	43.9%
% Declined - Preliminary	48.8%	51.5%	51.9%	46.1%	44.9%
% Declined - Total	78.4%	78.2%	86.6%	82.6%	88.9%

NSW OMBUDSMAN - COMPARATIVE ANALYSIS - 1989 TO 1993

	1988/89	1989/90	1990/91	1991/92	1992/93
Police:					
Complaints Received	2,231	2,352	3,232	3,375	4,008
Complaints Finalised	2,237	2,077	2,656	3,624	3,740
Investigations	515	374	584	761	798
%	23.0%	18.0%	22.0%	21.0%	21.4%
Re-Investigations	11	11	11	8	5
%	0.5%	0.5%	0.4%	0.2%	0.1%
% Declined at Outset	42.3%	46.7%	40.6%	41.9%	41.4%
% Declined after Enquiry	25.4%	23.8%	26.5%	19.0%	23.1%
Declined at Outset	946	970	1,078	1,518	1,548
Declined after Enquiry	568	494	704	689	865
	1,514	1,464	1,782	2,207	2,413
Complaints Received:					
Depts & Authorities	969	1,111	1,173	1,125	945
Local Councils	633	716	716	629	638
Prisons	321	310	520	393	396
Police	2,231	2,352	3,232	3,375	4,008
Outside Jurisdiction	345	302	274	393	456
	4,499	4,791	5,915	5,915	6,443
Complaints Finalised:					
Depts & Authorities	996	1,102	1,046	1,173	1,184
Local Councils	624	711	713	694	534
Prisons	287	340	395	453	296
Police	2,237	2,077	2,656	3,624	3,740
	4,144	4,230	4,810	5,944	5,754
Investigations:					
Depts & Authorities	54	34	24	33	19
Local Councils	30	41	14	15	7
Prisons	11	12	10	25	7
Police	11	11	11	8	5
	106	98	59	81	38
% of Complaints Finalised	2.6%	2.3%	1.2%	1.4%	0.7%
Declined at Outset:					
Depts & Authorities	259	393	349	508	523
Local Councils	157	209	262	371	295
Prisons	85	91	137	165	130
Police	946	970	1,078	1,518	1,548
	1,447	1,663	1,826	2,562	2,496
% of Complaints Finalised	34.9%	39.3%	38.0%	43.1%	43.4%

NSW OMBUDSMAN - COMPARATIVE ANALYSIS - 1989 TO 1993

	1988/89	1989/90	1990/91	1991/92	1992/93
Declined after Preliminary:					
Depts & Authorities	479	460	510	479	248
Local Councils	347	358	342	242	190
Prisons	140	175	205	209	133
Police	568	494	704	689	865
	1,534	1,487	1,761	1,619	1,436
% of Complaints Finalised	37.0%	35.2%	36.6%	27.2%	25.0%
Declined - Total:					
Depts & Authorities	738	853	859	987	771
Local Councils	504	567	604	613	485
Prisons	225	266	342	374	263
Police	1,514	1,464	1,782	2,207	2,413
	2,981	3,150	3,587	4,181	3,932
% of Complaints Finalised	71.9%	74.5%	74.6%	70.3%	68.3%
Telephone Enquiries	7,208	6,522	8,710	14,063	12,244
Interviews	535	528	558	745	456
Staffing:					
Statutory	4	3	4	4	4
Investigation - Police & General	31	30	31	30	29
Investigation - Other	22	22	22	22	22
Administration	13	15	16	18	17
	70	70	73	74	72
Complaints Received per Investigation Staff	145	160	191	197	222
Complaints Finalised per Investigation Staff	134	141	155	198	198
Investigations performed per Investigation Staff	3.4	3.3	1.9	2.7	1.3
Complaints Declined per Investigation Staff	96	105	116	139	136
Expenditure:					
Salary Related	2,219	2,736	3,079	3,444	3,337
Maintenance & Working	1,081	1,150	1,198	1,011	1,094
	3,300	3,886	4,277	4,455	4,431

NSW OMBUDSMAN - COMPARATIVE ANALYSIS - 1989 TO 1993

	1988/89	1989/90	1990/91	1991/92	1992/93
Average Cost per Complaint Finalised	796	919	889	749	770
Freedom of Information:					
Complaints Received	n/a	54	61	64	79
Complaints Finalised	n/a	29	37	72	55
Declined	n/a	13	25	51	15
Investigated	n/a	1	4	10	1
% Declined	n/a	44.8%	67.6%	70.8%	27.3%
% Investigated	n/a	3.4%	10.8%	13.9%	1.8%
Costs per Staff Member:					
Total Cost	47,143	55,514	58,589	60,203	61,542
Salary Related Cost	31,700	39,086	42,178	46,541	46,347
Working & Maintenance	15,443	16,429	16,411	13,662	15,194
Number of Visits:					
Public Awareness	33	14	11	0	16
Prisons	36	22	20	27	29
Juvenile Institutions	12	4	5	3	11
	81	40	36	30	56
Oral Complaints Dealt With:					
Public Awareness	494	274	199	0	n/a
Prisons	420	275	315	349	n/a
Juvenile Institutions	146	43	41	23	n/a
	1,060	592	555	372	n/a

APPENDIX 8
COMPARATIVE PERFORMANCE
MEASURES - STATE BY STATE

STATE BY STATE COMPARISONS

	NSW	VIC	QLD	SA	WA	TAS	COMM	ICAC
Total Expenditure	4,618	1,876	1,870	725	1,035	414	5,126	15,124
Employee Related Expenses	3,444	1,332	1,241	528	708	350	3,257	8,590
Rent	640	350	342	98	190	Not Paid	629	984
Other Working & Maint.	371	194	201	99	83	64	1,120	3,358
Depreciation	163	Incl. above	Incl. above	Incl. above	Incl. above	Incl. above	Incl. above	1,056
Other	0	0	86	0	54	0	120	1,136
	4,618	1,876	1,870	725	1,035	414	5,126	15,124
Jurisdiction:								
General	✓	✓	✓	✓	✓	✓	✓	n/a
Police	✓	✓	x	x	✓	✓	✓	n/a
FOI	✓	✓	x	✓	x	x	✓	n/a
TIIU	✓	✓	x	x	x	x	x	n/a
Defence Force	x	x	x	x	x	x	✓	n/a
ACT	x	x	x	x	x	x	✓	n/a
Commonwealth	x	x	x	x	x	✓	✓	n/a
Complaints in Writing	✓	✓	✓	x	✓	x	x	n/a
Case Movements:								
Brought forward			1,311	280	676	0		n/a
New Cases Received	5,915	5,458	2,567	2,288	2,529	396	17,153	n/a
Cases Reopened			174	0	0	0		n/a
Cases Closed			(2,952)	(2,257)	(2,140)	(313)		n/a
Carried forward	5,915	5,458	1,100	311	1,065	83	17,153	n/a

STATE BY STATE COMPARISONS

	NSW	VIC	QLD	SA	WA	TAS	COMM	ICAC
Number of Complaints								
Police	3,375	2,631	68	5	1,162	45	693	n/a
Prisons	393	413	226	293	264	23	0	n/a
Local Councils	629	302	885	454	265	95	0	n/a
Other Depts & Authorities	1,125	2,050	1,214	1,536	578	150	15,642	n/a
Outside Jurisdiction	393	62	174	0	260	0	0	n/a
Other							818	1,438
	5,915	5,458	2,567	2,288	2,529	313	17,153	1,438
Telephone Enquiries	14,063	16,000	3,360	15,300	13,300	1,800	19,100	n/a
FOI Cases	72	156	n/a	10	n/a	n/a	177	n/a
Staff Numbers								
Statutory	4	3	3	2	2	2	3	1
Investigation	52	12	14	7	8	4	50	93
Administration	18	11	8	3	6	2	23	48
	74	26	25	12	16	8	76	142

STATE BY STATE COMPARISONS

	NSW	VIC	QLD	SA	WA	TAS	COMM	ICAC
Staff Ratios:								
Statutory	5.4%	11.5%	12.0%	16.7%	12.5%	25.0%	3.9%	0.7%
Investigative	70.3%	46.2%	56.0%	58.3%	50.0%	50.0%	65.8%	65.5%
Administration	24.3%	42.3%	32.0%	25.0%	37.5%	25.0%	30.3%	33.8%
	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Costs per Employee:								
Total	62,405	72,154	74,800	60,417	64,688	51,750	67,447	106,507
Employee Related	46,541	51,231	49,640	44,000	44,250	43,750	42,855	60,493
Rent	8,649	13,462	13,680	8,167	11,875	n/a	8,276	6,930
Other	7,216	7,462	8,040	8,250	5,188	8,000	14,737	31,085
Complaint Ratios:								
Cost per Complaint (\$)	781	344	728	317	409	1,323	299	10,517
Complaints per Inv. Staff	114	455	183	327	316	99	343	15

APPENDIX 9
FUNDING MODEL

NSW OMBUDSMAN - FUNDING MODEL

Investigation Staff Requirements:										Average Salary	Salary Cost
	Statutory	Police	General	FOI	TIU	Inquiries	Aboriginal	Youth	Total		
Ombudsman									0		0
Deputy Ombudsman									0		0
Assistant Ombudsman									0		0
Complaints Manager									0		0
Senior Investigation Officer		#NUM!	#NUM!						#NUM!		#NUM!
Investigation Officer		#NUM!	#NUM!	#NUM!					#NUM!		#NUM!
Investigation Assistant		#NUM!	#NUM!						#NUM!		#NUM!
Senior Inquiry Clerk						#NUM!			#NUM!		#NUM!
Inquiry Clerk						#NUM!			#NUM!		#NUM!
	0	#NUM!	#NUM!	#NUM!	0	#NUM!	0	0	#NUM!	#NUM!	#NUM!

Projected Complaints	0	0	0	n/a	0	n/a	n/a
Complaint Targets	0	0	0	n/a	0	n/a	n/a

Administration Staff Requirements:								Average Salary	Salary Cost	
	Ex. Officer	Personnel	Accounting	Media	Info Sys	Secretarial	Librarian	Total		
Executive Officer								0		0
Human Resource Supervisor								0		0
Financial Accountant								0		0
Media Director								0		0
Information Systems Manager								0		0
Data Control Officer								0		0
Snr Info Systems Officer								0		0
Information Systems Officer								0		0
Administration Officer								0		0
Administration Assistant								0		0
Media Assistant								0		0
Secretary								0		0
Librarian								0		0
	0	0	0	0	0	0	0	0	#NUM!	0

Total Staff Requirement and Base Salary Cost								#NUM!	#NUM!
---	--	--	--	--	--	--	--	-------	-------

Total Staff Requirement and Base Salary Cost	#NUM!	#NUM!
---	--------------	--------------

Salary Related Expenses:		
Payroll Tax		#NUM!
Superannuation		#NUM!
Annual Leave		
Long Service Leave		
Annual Leave Loading		
Allowances		
Overtime		
Workers Comp Insurance		
Meals		
Fringe Benefits Tax		
Total Salary Related		#NUM!

Rental Expense (Office):		#NUM!
---------------------------------	--	--------------

Square Metres per Employee		(1992/93 - 20 square metres)
Total Space Requirement	#NUM!	(1992/93 - 1,439 square metres)
Annual Rental Per Square Metre (\$)		(1992/93 - \$407 per square metre)

Rental Expense (Car Parking):		
--------------------------------------	--	--

Other Working & Maintenance Expenses:		#NUM!
--	--	--------------

% of Total Expenditure	(1992/93 - 12% or \$450,000)
-------------------------------	------------------------------

Depreciation Charge		
----------------------------	--	--

Protected Items - Special Investigations		
---	--	--

TOTAL EXPENDITURE		#NUM!
--------------------------	--	--------------

Less: Unfunded Items		
Superannuation		#NUM!
Long Service Leave		0
Depreciation		0
Total Unfunded		#NUM!

TOTAL RECURRENT FUNDING REQUIRED		#NUM!
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APPENDIX 10
DECLINES POLICY

MEMO

Office of the Ombudsman
3rd Floor
680 George St
Sydney 2000

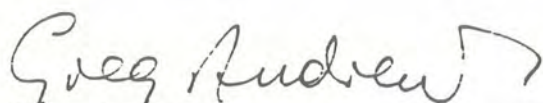
TO: All Investigation Staff
FROM: Greg Andrews
SUBJECT: COMPLAINT ASSESSMENT/MANAGEMENT POLICY
DATE: 10 September 1992
NUMBER: M3/9/92

You would have all seen the draft decline policy as part of the corporate plan consultations.

It has now been revised and finalised. We will review it again as part of the corporate planning cycle in December.

Major changes include:

- Reference to priority given to complaints identifying systemic and procedural deficiencies and individual cases of serious abuse of powers. (3.1)
- Deletion of reference to the GIO as it is now NJ.
- New section 5.2 which refers to the pro-forma letter which we should send when we decline premature complaints.
- A more detailed explanation of the new expanded results categories.
- The dropping of the old result category of NPFE which was hardly used and can be included under DECO 3 or DECE 1.


Greg Andrews
Assistant Ombudsman

COMPLAINT ASSESSMENT/ MANAGEMENT POLICY

PURPOSE

1. The purpose of this policy is:
 - To provide guidelines for exercising the discretion not to investigate.
 - To provide guidelines for the form and content of decline letters.
 - To set goals for greater efficiency in declining complaints at the outset.
 - To provide guidelines for managing preliminary enquiries and investigations.

PREAMBLE

- 2.1 The public have a right to make complaints to the Ombudsman under both the Ombudsman Act, the Police Regulation (Allegations of Misconduct) Act and the Freedom of Information Act. There are insufficient resources, however, to investigate all matters, including many that appear to have merit.
- 2.2 Given an increasing complaint load and declining resources, the public interest is best served by giving priority to those complaints that identify systemic and procedural deficiencies in administration. Greater resources must also be made available for formal investigations and complex enquiries if the Office is to achieve effective results from its investigation work.
- 2.3 Consequently, a significant and increasing number of complaints coming to the Office will have to be declined in the Ombudsman's discretion. This discretion has to be exercised with great sensitivity and fairness. Even in declining complaints, we must strive to provide a service to those with legitimate grievances.

PRINCIPLES

- 3.1 The following principles apply:
 - Priority is to be given to complaints that identify systemic and procedural deficiencies in public administration and individual cases of serious abuse of powers.
 - Preference is to be given to complaints that, if investigated, are likely to lead to practical and measurable changes through recommendations.

-
-
- Generally, the Ombudsman should be an avenue of last resort:

- complaints are expected to, and are to be encouraged, to take up individual grievances with the public authority concerned before asking the Ombudsman to investigate.

- alternative and satisfactory (to the Ombudsman) means of redress are to be used.

- The lack of resources, both human and financial, is an essential consideration in the exercise of the discretion not to investigate.

DECLINE GUIDELINES

- 4.1 Due regard must be given to section 12 of the Ombudsman Act and section 5(3) of the Police Regulation (Allegations of Misconduct) Act in assessing each complaint. Any complaint that is not a complaint within the meaning of either Act or is outside jurisdiction must be automatically declined.
- 4.2 Section 13 of the Ombudsman Act and Section 19 of the Police Regulation (Allegations of Misconduct) Act provide in similar terms a discretion by the Ombudsman to decide whether or not to investigate a complaint. In making that decision he may have regard to such matters as he thinks fit including matters to do with triviality, vexatiousness, frivolousness, bad faith, remoteness in time, alternative means of redress, personal interest, and in the case of the Ombudsman Act, whether the subject matter of complaint is substantially a trading or commercial function.
- 4.3 All decisions made to decline or discontinue investigations are to be made in the public interest and in accordance with these guidelines.
- 4.4 Complaints that are frivolous, vexatious, not in good faith or which are trivial, are to be automatically declined.
- 4.5 ALL complaints relating to the discharge by a public authority of a function which is substantially a trading or commercial function are to be declined. This includes complaints relating to conflicts with public authorities over leases, tenders and other contracts unless there is prima facie evidence of a pecuniary interest, conflict of interest or possible corruption. It does not apply to complaints by public housing tenants concerning the conduct of the Department of Housing as landlord, although there may be other bases on which such complaints might be declined.
- 4.6 All complaints relating to conduct more than 6 months old as at the date of complaint are to be declined.
- 4.7 All complaints in respect of which there is or was available to the complainant an alternative and satisfactory means of redress are to be declined. This includes:-

- conduct where there is an internal appeal mechanism available.

-all complaints concerning the conduct of local government authorities in respect of which there is a right of appeal or review including Class 4 appeals to the Land and Environment Court unless the Assistant Ombudsman responsible for Local Government complaints or the Ombudsman concludes that "special circumstances" exist in terms of section 13(5). Complaints where no special circumstances exist must be declined as they are outside jurisdiction.

-conduct where substantial economic loss is claimed and restitution is only likely as a result of litigation.

- 4.8 All premature complaints, complaints involving minor misconduct which have no widespread implications, and complaints in respect of which the complainant has no direct interest or an insufficient interest are to be declined.

DECLINE LETTERS

- 5.1 Whether at the outset or after preliminary enquiries, every decline letter must
- be prefaced by an explanation of Ombudsman receiving far more complaints than he has resources to investigate and that priority is given to those matters that identify systemic and procedural deficiencies in public administration where complainants have no alternative and satisfactory means of redress. (This does not apply to NJ's).
 - give reasons for the decision not to investigate.
 - wherever possible, provide an explanation or references to relevant legislation, policy or procedures affecting the public authority concerned. If appropriate, provide copies of that relevant material or indicate avenues of access to that material.
 - wherever possible, provide information on avenues of appeal or alternative remedies.
- 5.2 Complaints that are premature should be directed towards internal complaints resolution. Complainants should be advised to contact the public authority directly and be provided with a completed copy of the pro-forma attached as appendix A.

PROCEDURES FOR DECLINING

- 6.1 The Deputy Ombudsman and Assistant Ombudsmen will assess all new complaints and give written directions on 'birth certificates' as to whether a complaint is to be declined at the outset, or whether preliminary enquiries should be undertaken, and if so, in what form. If a complaint is to be declined, an indication of the main reasons will be given. Officers are to expand these reasons into comprehensive explanations.
- 6.2 It must be remembered however, that a discretion is being exercised and if an investigation officer believes there are any grounds for varying those directions they are to discuss them with the assessing officer before further action is taken. Otherwise these assessments are to be treated as directions.

-
-
- 6.3 Complaints that are to be declined at the outset need not be acknowledged. Final letters are to be issued, however, within 7 working days of file creation date.

PRELIMINARY ENQUIRIES

- 7.1 Written preliminary enquiries in respect of complaints under the Ombudsman Act should only be made when absolutely necessary; greater use is to be made of the telephone for such enquiries. The purpose of telephone enquiries should be:
- (a) To gather further information in order to better assess complaint.
 - (b) To enquire if there are avenues for re-consideration/resolution.

Where preliminary enquiries either under the Ombudsman Act or the Police Regulation (Allegations of Misconduct) Act are made in writing, there are to be no further written preliminary enquiries without the approval of the relevant Senior Investigation Officer.

- 7.2 Complaints are to be declined where, after preliminary enquiries, it appears to the investigation officer that the matter can be satisfactorily resolved either by explanation, or by further action that the public authority is willing to take, and/or the complainant can take.

INVESTIGATIONS

- 8.1 No investigation is to be commenced under Section 16 of the Ombudsman Act without the specific approval of the relevant SIO. All section 16 notices under the Ombudsman Act are to be notified to the Principal Investigation Officer for recording purposes. A copy is also to be given to the Deputy Ombudsman or the Assistant Ombudsman wherever relevant. Any section 16 notice that includes a demand under s.18 of the Act has to be referred to the relevant statutory officer for signature. All re-investigations in the police area are to be approved by the Assistant Ombudsman (Police).
- 8.2 Senior Investigation Officers are to conduct three monthly reviews of all current non police files that are more than 3 months old from file creation date in terms of preliminary enquiries and from date of issue of S.16 notice in matters under investigation. The Deputy Ombudsman and Assistant Ombudsman (Prisons and Local Government) will review all non-police files unresolved after 6 months from file creation date or date of issue of S.16 notice in the case of investigations on a tri-annual basis.

DETERMINATION CATEGORIES

- 9.1 Statistical reporting on disposal of complaints should reflect the amount of work/assistance provided to complainants by this office.
- 9.2 Determination categories for complaints are to be as follows:
- | | |
|----|---|
| NJ | complaint is not within the Ombudsman's jurisdiction. (includes referrals to Commonwealth Ombudsman, Banking Ombudsman, Consumer Affairs, etc.) |
|----|---|

DECO1	13(4)(b)(i) - frivolous, vexatious or not in good faith (ii) - trivial (iii) - trading or commercial (iv) - too remote in time (more than 6 months) (vi) - complainant has no or insufficient interest
DECO2	13(4)(b)(v) - alternative means of redress 13(5) - right of appeal in local government matter
DECO3	explanation/advice provided (eg, relevant legislation or conduct of public authority explained, no prima facie evidence of wrong conduct, advised to see legal adviser to explore other remedies, general advice given on how to deal with problem)
DECO4	premature & referred to public authority for internal complaints resolution
DECO5	declined on resources/priority basis
DECE1	complainant assisted (same as DECO 3 but after preliminary enquiries)
DECE2	complaint withdrawn; insufficient evidence or no utility warranting investigation
DECE3	investigation declined on resources/priority basis
RES	outcome of written or telephone preliminary enquiries considered to have resolved complaint to satisfaction of Ombudsman
DISC 1	Complaint discontinued after issue of s.16 due to matter being resolved
DISC 2	Complaint discontinued after issue of s.16 as no utility in proceeding
DISC 3	Complaint discontinued after issue of s.16 as complaint withdrawn
NWC	No adverse findings
WC	Conduct falling within s.26(1)

APPENDIX A

Pro-forma letter for use with declining premature complaints to be referred for internal complaints resolution.



OFFICE OF THE OMBUDSMAN
3RD FLOOR 580 GEORGE STREET, SYDNEY 2000
TELEPHONE: 286 1000

Our reference. GA:pj

Your reference:

[ADDRESS TO HEAD OF PUBLIC AUTHORITY]

Dear ,

..... has made a complaint to the Ombudsman about.....
.....

I have informed the complainant that the public authority concerned should first be given the opportunity to review the conduct complained of and consider whether any changes/action should take place in light of the grievance. I have therefore advised the complainant to send a written complaint directly to you and have provided this letter to them to forward with their complaint.

I would be pleased if you would review this matter and advise the complainant directly of the result of your further consideration.

The complainant has been invited to re-submit their complaint to this Office if they are not satisfied with your review. The complaint will be assessed on its merits at that stage.

Yours faithfully,

**Investigation Officer
for the Ombudsman**

APPENDIX 11
ASSESSMENT OF LOCATION

ASSESSMENT OF LOCATION

Introduction

In this appendix we assess the location of the Ombudsman's Office. In particular, we consider:

- the background to the current office location;
- the geographic factors affecting the location;
- the space requirements; and
- rental expense issues.

Background

The Ombudsman's Office is presently located in the Coopers & Lybrand building at 580 George Street, Sydney. The office occupies the 3rd floor of the building and part of the 5th floor.

The Ombudsman's Office has been located at its present location since October 1989. It was previously located in Hooker House at 175 Pitt Street, Sydney. The move was considered necessary due to the increasing size of the Ombudsman's staff, particularly as a result of the introduction of the Telecommunications Interception Inspection Unit to the Ombudsman's jurisdiction. Separate office space in the Landmark Building at 345 George Street was leased to house the Telecommunications Interception Inspection Unit as no additional space was available in Hooker House.

The total space occupied by the Ombudsman's Office (including the Landmark Building) was 1,225 square metres. The Ombudsman estimated that his office would require in total between 1,400 and 1,500 square metres. In view of the additional space requirements, the need to consolidate all functions in one location, and the fact that the Hooker House lease expired in February 1990 (with no option for renewal), the Ombudsman considered it necessary to relocate to suitable premises in the CBD fringe.

The Premier approved the relocation of the office to the CBD fringe in July 1988. At that time the Office Accommodation Bureau (OAB) was responsible for government office space and the Bureau was seeking to achieve a rental of around \$285 per square metre although this was later increased to \$330 per square metre.

The OAB investigated alternative premises and undertook cost analysis of the following building options:

- remaining in Hooker House;
- Coopers & Lybrand Building;
- 255 Pitt Street - Capital Centre;
- 55 Market Street - City Centre.

It was decided to select the Coopers & Lybrand building.

A six year lease (with an option for six more years) was subsequently executed in March 1989. As part of this agreement, the owners agreed to contribute \$215,000 towards fitout costs. Rent reviews were on a two yearly basis to market.

The first rent review was in March 1991. Rentals were increased from an average \$358 per metre to \$407 per metre. This equated to a total rent increase of around \$72,000. The Ombudsman applied to NSW Treasury for an increase to his recurrent funding allocation for this amount but this was rejected as it was under the required 'single occupancy tenancy threshold' of \$100,000.

The Ombudsman considers that his rental increase was unjustified given the state of the commercial property market at the time. In addition, as a result of NSW Treasury's decision to not provide any additional funding, the \$72,000 shortfall will effectively occur each year. Negotiations are presently taking place with the landlord for the rent review due in March 1993. The landlord has requested an increase to \$418 per square metre for Level 3 and \$439 for Level 5. The Ombudsman is presently disputing this increase.

Total annual rent based on the March 1993 increases proposed by the building's owners (based on total current space occupied of 1,439 square metres) would be \$605,000 (excluding car parking), an increase of around \$20,000.

The current lease is due to expire in March 1995.

Geographic Factors Impacting Location

The Ombudsman considers that the optimum location for his office is within the CBD/fringe CBD with easy transport access for complainants. The location should be readily accessible to the public and government departments and should therefore be close to public transport.

The present location is readily accessible by bus and rail transport, and is located at Town Hall railway station. It is also close to Central Station which is the destination of a significant number of country rail services. This facilitates relatively easy access for complainants and other persons travelling from the country. With the reduction in the number of visits made by the office to country areas, there appears to be a need for more complainants to visit the Sydney office, therefore increasing the importance of locating the Ombudsman within easy access of Central Station. In addition, the present location is central to many of the departments and authorities which fall under the jurisdiction of the Ombudsman.

The principal options for physical location based on purely geographic considerations are therefore considered to be:

- remain in Coopers & Lybrand Building or similar location;
- move to Sydney suburban area (e.g. Parramatta);
- occupy smaller premises (in Sydney CBD or metropolitan area) with small regional offices in major country centres (e.g. Newcastle and Wollongong).

Although a move to the Sydney suburban region (e.g. Parramatta) could still provide the required facilities at a cheaper cost, access to the public and other government departments, although adequate in, say, Parramatta, would not be as good as a central Sydney location and may result in additional costs (e.g. couriers, transport, etc).

As a result of the relatively small number of complaints that originate in country centres, it does not appear feasible to set up small offices in major country centres with, say, one full time staff member in each. Major centres such as Newcastle and Wollongong are visited by Sydney based staff on a monthly basis. Staff were visited by around 30 persons in both Newcastle and Wollongong during the last visits. It is very unlikely that there would be enough activity in these centres to justify a full-time member of staff in each location.

Office Space Requirements

Presently, each member of staff (assuming the current total approved staffing level of 72) occupies an average of 20 square metres and the majority of investigative staff share an office. Generally, the amount of office space occupied per person varies between organisations from about 12 square metres to 18 square metres. Based on this criteria, the Ombudsman's current space in the Coopers & Lybrand Building would appear more than adequate. In making this observation, however, it should be noted that a detailed assessment of office space requirements was performed by the Ombudsman in 1988 when considering the move from Hooker House. These space requirements were accepted by the Department of Administrative Services at that time.

For comparative purposes, recent recommendations made on the location of the Telecommunications Industry Ombudsman suggested that average space of 17 square metres per member of staff was appropriate. In making such comparisons, it should also be noted that the Independent Commission Against Corruption presently has an average of approximately 28 square metres (#) per member of staff, although the annual rental cost per staff member is lower as a result of the significantly lower rents available in the Redfern area in which ICAC is located (# based on verbal information provided by ICAC).

Based on the above, we do not believe that the current levels of office space occupied by the Ombudsman are excessive. However, given the range of between 12 and 18 square metres, we believe a benchmark of around 18 square metres to be sufficient.

Rental Expense

As discussed above, the Ombudsman is presently paying an average rent of \$407 per square metre (excluding car parking), with an imminent proposed increase to an average of \$421 per square metre.

To determine the options presently available within the Sydney geographical area, estimates of current market rates were obtained for comparative purposes.

Details of current rentals were obtained from a leading commercial real estate organisations. Rents shown are for 'Grade A' office accommodation and are set out in the following table:

Location	Rent per square metre p.a.
Prime Sydney CBD	\$350 to \$600
Western Corridor/Fringe CBD	\$300 to \$425
South of CBD (i.e. present location)	\$250 to \$350
Redfern (i.e. ICAC location)	\$150 to \$200
North Sydney	\$200 to \$400
Parramatta	\$225 to \$300

Attractive fitout and other incentives of up to 50% are also presently available to attract tenants.

The table above shows that current rents are significantly lower than those achievable when the NSW Ombudsman took out his present lease in 1989, primarily as a result of the decline in the property market and the current high vacancy levels in the Sydney area.

The rental market is expected to remain at current levels for the next two to three years. Accordingly, the Ombudsman may be in a position to negotiate extremely favourable terms in his present location when the present six year lease comes up for renewal in 1995, or he can consider alternative suitable lower cost accommodation in a similar location.

In addition, given the state of the rental market, the Ombudsman may be able to negotiate more favourable rental terms from the present time with the landlord if he agrees now to exercise his option to extend the lease beyond the March 1995 expiry date.

When considering a move to suburban Sydney (i.e. Parramatta) for rental reduction purposes, it should be noted that Parramatta rents are presently not significantly lower than those available around the Ombudsman's present location. The Parramatta market is relatively strong with limited office space available. In addition, the incentives on offer in that area are significantly less than available in the Sydney CBD and surrounding area.

By comparison, ICAC are presently paying annual rental of approximately \$250 per square metre. As outlined previously, their rate is significantly lower than the Ombudsman's due to the Commission's location outside the Sydney CBD area in Redfern.

Conclusion

In summary, we believe that the principal locational requirements for the Ombudsman's office are as follows:

- separate to other government departments;
- within easy access to public transport for complainants visiting the office;

- within a recognised district/centre in Sydney city/metropolitan area;
- a competitive rental and incentives package;
- all necessary physical attributes (e.g. security) are provided.

After consideration of all relevant issues discussed above, we believe that the present office location in the Coopers & Lybrand Building fulfils the Ombudsman's current requirements at reasonable level of expenditure.

It should be noted that similar suitable office accommodation is presently available within the Sydney CBD/CBD fringe area at significantly lower rents principally as a result of the decline in the property market and the current high vacancy levels in the Sydney area. The NSW Ombudsman, however, is obliged to meet his current rental commitments until the present lease expires in 1995. Significant penalties would be involved if the Ombudsman was to terminate the current lease before the due date. This would not make any move at the current time financially feasible.

We recommend that the Office consider the locational options towards the expiry of the present six year lease in March 1995. The Office has the option for a six year renewal and may be in a position to negotiate more favourable terms with the landlord or consider alternative accommodation in the same area. He should also consider negotiating the extension of the lease now as this may provide him with more favourable rental terms from the present date.

APPENDIX 12
PUBLIC AUTHORITY SURVEY
QUESTIONNAIRE

SURVEY OF GOVERNMENT AGENCIES
UNDER THE JURISDICTION OF THE NSW
OFFICE OF THE OMBUDSMAN

KPMG Peat Marwick is undertaking a survey of public sector organisations which are within the jurisdiction of the NSW Ombudsman. The survey is part of a management review of the Ombudsman's Office which we are undertaking on behalf of the Joint Committee of the Office of the Ombudsman.

Should you require assistance or clarification on any aspect of the questionnaire, please contact Liz Scott or Ellis Zilka on 02 286 1046. Your responses will be treated confidentially.

Please return the completed questionnaire in the reply paid envelope provided no later than 2nd June 1993, to:

Liz Scott
KPMG Peat Marwick Management Consultants
Level 20, 45 Clarence Street,
SYDNEY NSW 2000

SURVEY

Q1. Based on your experience in dealing with the Ombudsman's Office, do you agree or disagree with the following statements regarding the Ombudsman's Office? (please tick appropriate box)

	Agree	Disagree
Provide sufficient time to respond to requests for info	<input type="checkbox"/>	<input type="checkbox"/>
Follow straight forward and easy to understand procedures	<input type="checkbox"/>	<input type="checkbox"/>
Make appropriate use of telephone as means of enquiry / investigation	<input type="checkbox"/>	<input type="checkbox"/>
Make personal visits as and when appropriate	<input type="checkbox"/>	<input type="checkbox"/>
Clearly explain their requirements	<input type="checkbox"/>	<input type="checkbox"/>
Have good understanding of your organisation	<input type="checkbox"/>	<input type="checkbox"/>
Are easy to contact	<input type="checkbox"/>	<input type="checkbox"/>
Have a professional attitude	<input type="checkbox"/>	<input type="checkbox"/>
Are co-operative to deal with	<input type="checkbox"/>	<input type="checkbox"/>
Are willing to listen to your side of the matter	<input type="checkbox"/>	<input type="checkbox"/>
Provide an unbiased assessment of complaints	<input type="checkbox"/>	<input type="checkbox"/>
Other (please explain below)	<input type="checkbox"/>	<input type="checkbox"/>

Why have you answered as you have? _____

Q2. Would you agree to the Ombudsman acting as mediator between your organisation and the complainant? (please tick appropriate box)

Yes
 No

Why have you answered as you have? _____

Q3. Do you prefer to deal with the Ombudsman: (please tick appropriate box)

- In writing
- By telephone
- By fax
- Face-to-face

Why have you answered as you have? _____

Q4. Do you have any suggestions about how the Ombudsman's Office could make its inquiry and investigative procedures more efficient or effective? (Attach comments if inadequate space is provided below.)

Q5. Approximately how often has your organisation dealt with the Ombudsman's Office? (tick appropriate box)

- | | | | |
|-------------------------|--------------------------|------------------------|--------------------------|
| daily | <input type="checkbox"/> | once every 1-3 months | <input type="checkbox"/> |
| several times per week | <input type="checkbox"/> | once every 4-6 months | <input type="checkbox"/> |
| once per week | <input type="checkbox"/> | once every 6-12 months | <input type="checkbox"/> |
| several times per month | <input type="checkbox"/> | once every 1-2 years | <input type="checkbox"/> |
| once per month | <input type="checkbox"/> | less frequently | <input type="checkbox"/> |

Q6. How would you rate your overall satisfaction with the Ombudsman's Office? (tick appropriate box)

- Very Satisfied
- Satisfied
- Marginal
- Unsatisfied
- Insufficient dealings to make assessment

Why have you answered as you have? _____

**This is the end of the questionnaire. Thank you for your co-operation.
Please return the completed questionnaire in the reply paid envelope.**

APPENDIX 13
LIST OF DOCUMENTATION REVIEWED
BY KPMG

LIST OF DOCUMENTS REVIEWED BY KPMG

The following documents have been reviewed by KPMG during the management review of the Ombudsman's Office:

- Annual Reports for:
 - NSW Ombudsman;
 - Victorian Ombudsman;
 - Western Australian Ombudsman;
 - South Australia Ombudsman;
 - Tasmanian Ombudsman;
 - Commonwealth and Defence Force Ombudsman;
 - Australian Banking Industry Ombudsman;
- 'Review of the Office of the Commonwealth Ombudsman', Report from the Senate Standing Committee on Finance and Public Administration, December 1991;
- Ombudsman Act 1974 No. 68, NSW;
- Ombudsman Amendment Act proposal - internal file;
- Independent Commission Against Corruption Act 1988 No. 35, NSW;
- Freedom of Information Act 1989 No. 5, NSW;
- Telecommunications (Interception) (New South Wales) Act 1987 No. 290, NSW;
- ICAC Annual Report 1991/92;
- Consumer Affairs Annual Report 1991/92;
- Police Regulation (Allegations of Misconduct) Act 1978 No. 84, NSW;
- "Inquiry Upon the Role of the Office of the Ombudsman In Investigating Complaints Against Police", Report to the Joint Committee of the Office of the Ombudsman, April 1992;
- various submissions to the Joint Committee of the Office of the Ombudsman in response to the Funding Inquiry - including 1st and 2nd submissions by the NSW Office of the Ombudsman;
- "Ombudsman Office Profiles: A Comparative Analysis of Ombudsmen Offices", International Ombudsman Institute, University of Alberta, Edmonton, 1988;
- Corporate Plan 1993 - 1995, NSW Office of Ombudsman;
- internal memo re Specific Responsibilities for Implementing Corporate Plan, 30 Mar 1993;

- various internal memo's prepared by Geoff Briot in preparation for the Joint Committee's Funding Inquiry, including historical statistics for NSW Ombudsman, comparisons with other Ombudsman Offices in Australia, relocation issues, etc;
- internal memo re Complaint Assessment / Management Policy, Sept 1992;
- internal memo re Resolution Strategies, 5 May 1993;
- internal report regarding Major and Significant General and Police Complaints;
- Information Processing Strategic Plan;
- copy of an application for Supplementation sent to Treasury;
- copy of a Maintenance Dispute sent to Treasury;
- CHIPS - internal working papers no. 1-3;
- Guidelines for Effective Complaint Management (CHIPS);
- copies of management reports provided by Information Systems Group and Accountant;
- various financial reports and estimates from Accountant;
- copy of Strategic Management Cycle;
- Budget Proposal - Media Officer, 1992;
- copy of Forward Estimates 1993-94 to 1995-96;
- briefing document in relation to the meeting between the Ombudsman and Secretary of the Treasury on 19 March 1993;
- duty statements for staff and statutory officers;
- internal memo re Duties of Administration Section - Statutory and Non-Statutory;
- Instrument of Delegation, Office of the Ombudsman, Public Sector Management Act, 1988;
- copy of Ombudsman's Complainant Survey;
- Public Awareness Survey, Commonwealth Ombudsman, 1992;
- Public Awareness - internal memo;
- Topline Results, Complainant Survey, NSW Ombudsman, 1993;
- proposal to restructure Office of the Ombudsman - internal file, 1993;

- proposal to redesign Police complaints handling procedures - internal memo;
- Review of FOI Complaint Procedures & Program Evaluation - internal memo, 1993;
- Management Review Report, Judy Johnston, June 1992;
- “Review of Organisation & Remuneration Policy: The Ombudsman’s Office”, prepared by independent consultant;
- response to request by Chairman of Joint Committee of the Office of the Ombudsman for information relating to the relocation of the Ombudsman to the Cooper & Lybrand Building and related locational issues;
- correspondence regarding the current rent review of the Office.

APPENDIX 14
LIST OF STAFF INTERVIEWED & STAFF
WHO PROVIDED WRITTEN
SUBMISSIONS

PLEASE NOTE

APPENDIX 14 REMOVED

CONTAINED CONFIDENTIAL MATERIAL

APPENDIX 15
CALCULATIONS OF FUNDING
REQUIREMENTS

CALCULATIONS OF FUNDING REQUIREMENTS

This appendix contains funding requirements produced by the funding model based on a number of complaint number and complaint profile scenarios. Details of underlying assumptions are set out in Section 5.4 of the report.

Scenarios adopted are as follows:

- 1992/93 Complaint Profile:
 - 1992/93 Complaint Numbers:
 - .. actual;
 - .. +10%;
 - .. -10%;
 - .. +25%;
 - .. -25%.

- 1988/89 Complaint Profile:
 - 1992/93 Complaint Numbers:
 - .. actual;
 - .. +10%;
 - .. -10%;
 - .. +25%;
 - .. -25%.

APPENDIX 15.1
CALCULATIONS OF FUNDING
REQUIREMENTS
BASED ON 1992/93 COMPLAINT
PROFILE

NSW OMBUDSMAN - FUNDING MODEL (1992/93 COMPLAINT PROFILE)

Investigation Staff Requirements:										Average Salary	Salary Cost
	Statutory	Police	General	FOI	TIU	Inquiries	Aboriginal	Other	Total		
Ombudsman	1								1	128,500	128,500
Deputy Ombudsman	1								1	116,750	116,750
Assistant Ombudsman	2								2	95,000	190,000
Complaints Manager		1	1						2	58,000	116,000
SIO/SEA		4	2		1			1	8	46,400	371,200
Investigation Officer		11	7	3	1		1		23	40,800	938,400
Investigation Assistant		5	3						8	25,000	200,000
Senior Inquiry Clerk						1			1	34,600	34,600
Inquiry Clerk/AIO					1	2			3	29,500	88,500
	4	21	13	3	3	3	1	1	49	44,570	2,183,950

1992/93 Complaints	4,008	2,435	n/a	12,000
% Increase/Decrease				
Projected Complaints	4,008	2,435	90	12,000
Productivity Target	267	271	30	4,000

Administration Staff Requirements:								Average Salary	Salary Cost	
	Ex. Officer	Personnel	Accounting	Media	Info Sys	Secretarial	Librarian	Total		
Executive Officer	1							1	55,700	55,700
Human Resource Supervisor		1						1	42,200	42,200
Financial Accountant			1					1	42,200	42,200
Media Director				1				1	39,300	39,300
Information Systems Manager					1			1	47,900	47,900
Data Control Officer					1			1	37,000	37,000
Snr Info Systems Officer					1			1	27,600	27,600
Information Systems Officer					1			1	21,600	21,600
Administration Officer		1						1	29,300	29,300
Administration Assistant		1	2					3	21,200	63,600
Media Assistant				1				1	24,100	24,100
Secretary						4		4	24,100	96,400
Librarian							1	1	29,300	29,300
	1	3	3	2	4	4	1	18	30,900	556,200

Total Staff Requirement and Base Salary Cost	67	2,740,150
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Total Staff Requirement and Base Salary Cost	67	2,740,150
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Salary Related Expenses:		
Payroll Tax		156,811
Superannuation		274,015
Annual Leave		20,000
Long Service Leave		85,000
Annual Leave Loading		27,000
Allowances		14,000
Overtime		0
Workers Comp Insurance		18,000
Meals		1,000
Fringe Benefits Tax		4,000
Total Salary Related		599,826

Rental Expense (Office):		585,673
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Square Metres per Employee	18	(1992/93 - 20 square metres)
Total Space Requirement	1,206	(1992/93 - 1,439 square metres)
Annual Rental Per Square Metre (\$)	407	(1992/93 - \$407 per square metre)

Rental Expense (Car Parking):		25,000
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Other Working & Maintenance Expenses:		474,078
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% of Total Expenditure	12%	(1992/93 - 12% or \$450,000)
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Depreciation Charge		161,000
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Protected Items - Special Investigations		150,000
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TOTAL EXPENDITURE		4,735,726
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Less: Unfunded Items		
Superannuation		274,015
Long Service Leave		85,000
Depreciation		161,000
Total Unfunded		520,015

TOTAL RECURRENT FUNDING REQUIRED		4,215,711
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NSW OMBUDSMAN - FUNDING MODEL (1992/93 COMPLAINT PROFILE - 10% INCREASE)

Investigation Staff Requirements:										Average Salary	Salary Cost
	Statutory	Police	General	FOI	TIU	Inquiries	Aboriginal	Other	Total		
Ombudsman	1								1	128,500	128,500
Deputy Ombudsman	1								1	116,750	116,750
Assistant Ombudsman	2								2	95,000	190,000
Complaints Manager		1	1						2	58,000	116,000
SIO/SEA		4	3		1			1	9	46,400	417,600
Investigation Officer		13	7	3	1		1		25	40,800	1,020,000
Investigation Assistant		5	3						8	25,000	200,000
Senior Inquiry Clerk						1			1	34,600	34,600
Inquiry Clerk/AIO					1	2			3	29,500	88,500
	<u>4</u>	<u>23</u>	<u>14</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>1</u>	<u>1</u>	<u>52</u>	<u>44,461</u>	<u>2,311,950</u>

1992/93 Complaints	4,008	2,435	n/a	12,000
% Increase/Decrease	10%	10%	n/a	10%
Projected Complaints	4,409	2,679	90	13,200
Productivity Target	267	271	30	4,000

Administration Staff Requirements:								Average Salary	Salary Cost	
	Ex. Officer	Personnel	Accounting	Media	Info Sys	Secretarial	Librarian	Total		
Executive Officer	1							1	55,700	55,700
Human Resource Supervisor		1						1	42,200	42,200
Financial Accountant			1					1	42,200	42,200
Media Director				1				1	39,300	39,300
Information Systems Manager					1			1	47,900	47,900
Data Control Officer					1			1	37,000	37,000
Snr Info Systems Officer					1			1	27,600	27,600
Information Systems Officer					1			1	21,600	21,600
Administration Officer		1						1	29,300	29,300
Administration Assistant		1	2					3	21,200	63,600
Media Assistant				1				1	24,100	24,100
Secretary						4		4	24,100	96,400
Librarian							1	1	29,300	29,300
	<u>1</u>	<u>3</u>	<u>3</u>	<u>2</u>	<u>4</u>	<u>4</u>	<u>1</u>	<u>18</u>	<u>30,900</u>	<u>556,200</u>

Total Staff Requirement and Base Salary Cost	70	2,868,150
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Total Staff Requirement and Base Salary Cost	70	2,868,150
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Salary Related Expenses:		
Payroll Tax		165,771
Superannuation		286,815
Annual Leave		20,000
Long Service Leave		85,000
Annual Leave Loading		27,000
Allowances		14,000
Overtime		0
Workers Comp Insurance		18,000
Meals		1,000
Fringe Benefits Tax		4,000
Total Salary Related		621,586

Rental Expense (Office):		585,673
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Square Metres per Employee	18	(1992/93 - 20 square metres)
Total Space Requirement	1,260	(1992/93 - 1,439 square metres)
Annual Rental Per Square Metre (\$)	407	(1992/93 - \$407 per square metre)

Rental Expense (Car Parking):		25,000
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Other Working & Maintenance Expenses:		492,049
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% of Total Expenditure	12%	(1992/93 - 12% or \$450,000)
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Depreciation Charge		161,000
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Protected Items - Special Investigations		150,000
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TOTAL EXPENDITURE		4,903,458
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Less: Unfunded Items		
Superannuation		286,815
Long Service Leave		85,000
Depreciation		161,000
Total Unfunded		532,815

TOTAL RECURRENT FUNDING REQUIRED		4,370,643
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NSW OMBUDSMAN - FUNDING MODEL (1992/93 COMPLAINT PROFILE - 10% DECREASE)

Investigation Staff Requirements:											
	Statutory	Police	General	FOI	TIU	Inquiries	Aboriginal	Other	Total	Average Salary	Salary Cost
Ombudsman	1								1	128,500	128,500
Deputy Ombudsman	1								1	116,750	116,750
Assistant Ombudsman	2								2	95,000	190,000
Complaints Manager		1	1						2	58,000	116,000
SIO/SEA		3	2		1			1	7	46,400	324,800
Investigation Officer		10	6	3	1		1		21	40,800	856,800
Investigation Assistant		4	3						7	25,000	175,000
Senior Inquiry Clerk						1			1	34,600	34,600
Inquiry Clerk/AIO					1	2			3	29,500	88,500
	4	18	12	3	3	3	1	1	45	45,132	2,030,950

1992/93 Complaints	4,008	2,435	n/a	12,000
% Increase/Decrease	-10%	-10%	n/a	-10%
Projected Complaints	3,607	2,192	90	10,800
Productivity Target	267	271	30	4,000

Administration Staff Requirements:								Total	Average Salary	Salary Cost
Ex. Officer	Personnel	Accounting	Media	Info Sys	Secretarial	Librarian				
Executive Officer	1						1	55,700	55,700	
Human Resource Supervisor		1					1	42,200	42,200	
Financial Accountant			1				1	42,200	42,200	
Media Director			1				1	39,300	39,300	
Information Systems Manager				1			1	47,900	47,900	
Data Control Officer				1			1	37,000	37,000	
Snr Info Systems Officer				1			1	27,600	27,600	
Information Systems Officer				1			1	21,600	21,600	
Administration Officer		1					1	29,300	29,300	
Administration Assistant		1	2				3	21,200	63,600	
Media Assistant			1				1	24,100	24,100	
Secretary					4		4	24,100	96,400	
Librarian						1	1	29,300	29,300	
	1	3	3	2	4	4	1	18	30,900	556,200

Total Staff Requirement and Base Salary Cost	63	2,587,150
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Total Staff Requirement and Base Salary Cost	63	2,587,150
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Salary Related Expenses:

Payroll Tax		146,101
Superannuation		258,715
Annual Leave		20,000
Long Service Leave		85,000
Annual Leave Loading		27,000
Allowances		14,000
Overtime		0
Workers Comp Insurance		18,000
Meals		1,000
Fringe Benefits Tax		4,000
Total Salary Related		573,816

Rental Expense (Office):		585,673
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Square Metres per Employee	18	(1992/93 - 20 square metres)
Total Space Requirement	1,134	(1992/93 - 1,439 square metres)
Annual Rental Per Square Metre (\$)	407	(1992/93 - \$407 per square metre)

Rental Expense (Car Parking):		25,000
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Other Working & Maintenance Expenses:		452,597
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% of Total Expenditure	12%	(1992/93 - 12% or \$450,000)
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Depreciation Charge		161,000
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Protected Items - Special Investigations		150,000
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TOTAL EXPENDITURE		4,535,235
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Less: Unfunded Items

Superannuation		258,715
Long Service Leave		85,000
Depreciation		161,000
Total Unfunded		504,715

TOTAL RECURRENT FUNDING REQUIRED		4,030,520
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NSW OMBUDSMAN - FUNDING MODEL (1992/93 COMPLAINT PROFILE - 25% INCREASE)

Investigation Staff Requirements:										Average Salary	Salary Cost
	Statutory	Police	General	FOI	TIU	Inquiries	Aboriginal	Other	Total		
Ombudsman	1								1	128,500	128,500
Deputy Ombudsman	1								1	116,750	116,750
Assistant Ombudsman	2								2	95,000	190,000
Complaints Manager		1	1						2	58,000	116,000
SIO/SEA		5	3		1			1	10	46,400	464,000
Investigation Officer		14	8	3	1		1		27	40,800	1,101,600
Investigation Assistant		6	3						9	25,000	225,000
Senior Inquiry Clerk						1			1	34,600	34,600
Inquiry Clerk/AIO					1	3			4	29,500	118,000
	<u>4</u>	<u>26</u>	<u>15</u>	<u>3</u>	<u>3</u>	<u>4</u>	<u>1</u>	<u>1</u>	<u>57</u>	<u>43,762</u>	<u>2,494,450</u>

1992/93 Complaints	4,008	2,435	n/a	12,000
% Increase/Decrease	25%	25%	n/a	25%
Projected Complaints	5,010	3,044	90	15,000
Productivity Target	267	271	30	4,000

Administration Staff Requirements:								Average Salary	Salary Cost	
	Ex. Officer	Personnel	Accounting	Media	Info Sys	Secretarial	Librarian	Total		
Executive Officer	1							1	55,700	55,700
Human Resource Supervisor		1						1	42,200	42,200
Financial Accountant			1					1	42,200	42,200
Media Director				1				1	39,300	39,300
Information Systems Manager					1			1	47,900	47,900
Data Control Officer					1			1	37,000	37,000
Snr Info Systems Officer					1			1	27,600	27,600
Information Systems Officer					1			1	21,600	21,600
Administration Officer		1						1	29,300	29,300
Administration Assistant		1	2					3	21,200	63,600
Media Assistant				1				1	24,100	24,100
Secretary						4		4	24,100	96,400
Librarian							1	1	29,300	29,300
	<u>1</u>	<u>3</u>	<u>3</u>	<u>2</u>	<u>4</u>	<u>4</u>	<u>1</u>	<u>18</u>	<u>30,900</u>	<u>556,200</u>

Total Staff Requirement and Base Salary Cost	75	3,050,650
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Total Staff Requirement and Base Salary Cost	75	3,050,650
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Salary Related Expenses:		
Payroll Tax		178,546
Superannuation		305,065
Annual Leave		20,000
Long Service Leave		85,000
Annual Leave Loading		27,000
Allowances		14,000
Overtime		0
Workers Comp Insurance		18,000
Meals		1,000
Fringe Benefits Tax		4,000
Total Salary Related		652,611

Rental Expense (Office):	585,673
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Square Metres per Employee	18	(1992/93 - 20 square metres)
Total Space Requirement	1,350	(1992/93 - 1,439 square metres)
Annual Rental Per Square Metre (\$)	407	(1992/93 - \$407 per square metre)

Rental Expense (Car Parking):	25,000
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Other Working & Maintenance Expenses:	517,672
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% of Total Expenditure	12%	(1992/93 - 12% or \$450,000)
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Depreciation Charge	161,000
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Protected Items - Special Investigations	150,000
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TOTAL EXPENDITURE	5,142,606
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Less: Unfunded Items		
Superannuation		305,065
Long Service Leave		85,000
Depreciation		161,000
Total Unfunded		551,065

TOTAL RECURRENT FUNDING REQUIRED	4,591,541
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NSW OMBUDSMAN - FUNDING MODEL (1992/93 COMPLAINT PROFILE - 25% DECREASE)

Investigation Staff Requirements:											
	Statutory	Police	General	FOI	TIU	Inquiries	Aboriginal	Other	Total	Average Salary	Salary Cost
Ombudsman	1								1	128,500	128,500
Deputy Ombudsman	1								1	116,750	116,750
Assistant Ombudsman	2								2	95,000	190,000
Complaints Manager		1	1						2	58,000	116,000
SIO/SEA		3	2		1			1	7	46,400	324,800
Investigation Officer		8	5	3	1		1		18	40,800	734,400
Investigation Assistant		4	2						6	25,000	150,000
Senior Inquiry Clerk						1			1	34,600	34,600
Inquiry Clerk/AIO					1	2			3	29,500	88,500
	<u>4</u>	<u>16</u>	<u>10</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>1</u>	<u>1</u>	<u>41</u>	<u>45,940</u>	<u>1,883,550</u>

1992/93 Complaints	4,008	2,435	n/a	12,000
% Increase/Decrease	-25%	-25%	n/a	-25%
Projected Complaints	3,006	1,826	90	9,000
Productivity Target	267	271	30	4,000

Administration Staff Requirements:								Average Salary	Salary Cost	
	Ex. Officer	Personnel	Accounting	Media	Info Sys	Secretarial	Librarian	Total		
Executive Officer	1							1	55,700	55,700
Human Resource Supervisor		1						1	42,200	42,200
Financial Accountant			1					1	42,200	42,200
Media Director				1				1	39,300	39,300
Information Systems Manager					1			1	47,900	47,900
Data Control Officer					1			1	37,000	37,000
Snr Info Systems Officer					1			1	27,600	27,600
Information Systems Officer					1			1	21,600	21,600
Administration Officer		1						1	29,300	29,300
Administration Assistant		1	2					3	21,200	63,600
Media Assistant				1				1	24,100	24,100
Secretary						4		4	24,100	96,400
Librarian							1	1	29,300	29,300
	<u>1</u>	<u>3</u>	<u>3</u>	<u>2</u>	<u>4</u>	<u>4</u>	<u>1</u>	<u>18</u>	<u>30,900</u>	<u>556,200</u>

Total Staff Requirement and Base Salary Cost	59	2,439,750
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Total Staff Requirement and Base Salary Cost	59	2,439,750
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Salary Related Expenses:		
Payroll Tax		135,783
Superannuation		243,975
Annual Leave		20,000
Long Service Leave		85,000
Annual Leave Loading		27,000
Allowances		14,000
Overtime		0
Workers Comp Insurance		18,000
Meals		1,000
Fringe Benefits Tax		4,000
Total Salary Related		548,758

Rental Expense (Office):		585,673
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Square Metres per Employee	18	(1992/93 - 20 square metres)
Total Space Requirement	1,062	(1992/93 - 1,439 square metres)
Annual Rental Per Square Metre (\$)	407	(1992/93 - \$407 per square metre)

Rental Expense (Car Parking):		25,000
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Other Working & Maintenance Expenses:		431,902
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% of Total Expenditure	12%	(1992/93 - 12% or \$450,000)
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Depreciation Charge		161,000
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Protected Items - Special Investigations		150,000
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TOTAL EXPENDITURE		4,342,082
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Less: Unfunded Items		
Superannuation		243,975
Long Service Leave		85,000
Depreciation		161,000
Total Unfunded		489,975

TOTAL RECURRENT FUNDING REQUIRED		3,852,107
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APPENDIX 15.2
CALCULATIONS OF FUNDING
REQUIREMENTS
BASED ON 1988/89 COMPLAINT
PROFILE

NSW OMBUDSMAN - FUNDING MODEL (1988/89 COMPLAINT PROFILE)

Investigation Staff Requirements:										Average Salary	Salary Cost
	Statutory	Police	General	FOI	TIIU	Inquiries	Aboriginal	Other	Total		
Ombudsman	1								1	128,500	128,500
Deputy Ombudsman	1								1	116,750	116,750
Assistant Ombudsman	2								2	95,000	190,000
Complaints Manager		1	1						2	58,000	116,000
SIO/SEA		6	4		1			1	12	46,400	556,800
Investigation Officer		19	10	3	1		1		34	40,800	1,387,200
Investigation Assistant		7	4						11	25,000	275,000
Senior Inquiry Clerk						1			1	34,600	34,600
Inquiry Clerk/AIO					1	2			3	29,500	88,500
	4	33	19	3	3	3	1	1	67	43,184	2,893,350

1992/93 Complaints	4,008	2,435	n/a	12,000
% Increase/Decrease			n/a	
Projected Complaints	4,008	2,435	90	12,000
Productivity Target	160	174	30	4,000

Administration Staff Requirements:								Average Salary	Salary Cost	
	Ex. Officer	Personnel	Accounting	Media	Info Sys	Secretarial	Librarian	Total		
Executive Officer	1							1	55,700	55,700
Human Resource Supervisor		1						1	42,200	42,200
Financial Accountant			1					1	42,200	42,200
Media Director				1				1	39,300	39,300
Information Systems Manager					1			1	47,900	47,900
Data Control Officer					1			1	37,000	37,000
Snr Info Systems Officer					1			1	27,600	27,600
Information Systems Officer					1			1	21,600	21,600
Administration Officer		1						1	29,300	29,300
Administration Assistant		1	2					3	21,200	63,600
Media Assistant				1				1	24,100	24,100
Secretary						4		4	24,100	96,400
Librarian							1	1	29,300	29,300
	1	3	3	2	4	4	1	18	30,900	556,200

Total Staff Requirement and Base Salary Cost	85	3,449,550
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Total Staff Requirement and Base Salary Cost	85	3,449,550
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Salary Related Expenses:		
Payroll Tax		206,469
Superannuation		344,955
Annual Leave		20,000
Long Service Leave		85,000
Annual Leave Loading		27,000
Allowances		14,000
Overtime		0
Workers Comp Insurance		18,000
Meals		1,000
Fringe Benefits Tax		4,000
Total Salary Related		720,424

Rental Expense (Office):	622,710
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Square Metres per Employee	18	(1992/93 - 20 square metres)
Total Space Requirement	1,530	(1992/93 - 1,439 square metres)
Annual Rental Per Square Metre (\$)	407	(1992/93 - \$407 per square metre)

Rental Expense (Car Parking):	25,000
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Other Working & Maintenance Expenses:	578,122
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% of Total Expenditure	12%	(1992/93 - 12% or \$450,000)
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Depreciation Charge	161,000
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Protected Items - Special Investigations	150,000
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TOTAL EXPENDITURE	5,706,806
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Less: Unfunded Items		
Superannuation		344,955
Long Service Leave		85,000
Depreciation		161,000
Total Unfunded		590,955

TOTAL RECURRENT FUNDING REQUIRED	5,115,851
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NSW OMBUDSMAN - FUNDING MODEL (1988/89 COMPLAINT PROFILE - 10% INCREASE)

Investigation Staff Requirements:										Average Salary	Salary Cost
	Statutory	Police	General	FOI	TIIU	Inquiries	Aboriginal	Other	Total		
Ombudsman	1								1	128,500	128,500
Deputy Ombudsman	1								1	116,750	116,750
Assistant Ombudsman	2								2	95,000	190,000
Complaints Manager		1	1						2	58,000	116,000
SIO/SEA		7	4		1			1	13	46,400	603,200
Investigation Officer		21	11	3	1		1		37	40,800	1,509,600
Investigation Assistant		8	5						13	25,000	325,000
Senior Inquiry Clerk						1			1	34,600	34,600
Inquiry Clerk/AIO					1	2			3	29,500	88,500
	4	37	21	3	3	3	1	1	73	42,632	3,112,150

1992/93 Complaints	4,008	2,435	n/a	12,000
% Increase/Decrease	10%	10%	n/a	10%
Projected Complaints	4,409	2,679	90	13,200
Productivity Target	160	174	30	4,000

Administration Staff Requirements:								Average Salary	Salary Cost	
	Ex. Officer	Personnel	Accounting	Media	Info Sys	Secretarial	Librarian	Total		
Executive Officer	1							1	55,700	55,700
Human Resource Supervisor		1						1	42,200	42,200
Financial Accountant			1					1	42,200	42,200
Media Director				1				1	39,300	39,300
Information Systems Manager					1			1	47,900	47,900
Data Control Officer					1			1	37,000	37,000
Snr Info Systems Officer					1			1	27,600	27,600
Information Systems Officer					1			1	21,600	21,600
Administration Officer		1						1	29,300	29,300
Administration Assistant		1	2					3	21,200	63,600
Media Assistant				1				1	24,100	24,100
Secretary						4		4	24,100	96,400
Librarian							1	1	29,300	29,300
	1	3	3	2	4	4	1	18	30,900	556,200

Total Staff Requirement and Base Salary Cost	91	3,668,350
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Total Staff Requirement and Base Salary Cost	91	3,668,350
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Salary Related Expenses:		
Payroll Tax		221,785
Superannuation		366,835
Annual Leave		20,000
Long Service Leave		85,000
Annual Leave Loading		27,000
Allowances		14,000
Overtime		0
Workers Comp Insurance		18,000
Meals		1,000
Fringe Benefits Tax		4,000
Total Salary Related		757,620

Rental Expense (Office):	866,666
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Square Metres per Employee	18	(1992/93 - 20 square metres)
Total Space Requirement	1,638	(1992/93 - 1,439 square metres)
Annual Rental Per Square Metre (\$)	407	(1992/93 - \$407 per square metre)

Rental Expense (Car Parking):	25,000
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Other Working & Maintenance Expenses:	614,116
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% of Total Expenditure	12%	(1992/93 - 12% or \$450,000)
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Depreciation Charge	161,000
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Protected Items - Special Investigations	150,000
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TOTAL EXPENDITURE	6,042,752
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Less: Unfunded Items		
Superannuation		366,835
Long Service Leave		85,000
Depreciation		161,000
Total Unfunded		612,835

TOTAL RECURRENT FUNDING REQUIRED	5,429,917
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NSW OMBUDSMAN - FUNDING MODEL (1988/89 COMPLAINT PROFILE - 10% DECREASE)

Investigation Staff Requirements:											
	Statutory	Police	General	FOI	TIU	Inquiries	Aboriginal	Other	Total	Average Salary	Salary Cost
Ombudsman	1								1	128,500	128,500
Deputy Ombudsman	1								1	116,750	116,750
Assistant Ombudsman	2								2	95,000	190,000
Complaints Manager		1	1						2	58,000	116,000
SIO/SEA		6	3		1			1	11	46,400	510,400
Investigation Officer		17	10	3	1		1		32	40,800	1,305,600
Investigation Assistant		7	4						11	25,000	275,000
Senior Inquiry Clerk						1			1	34,600	34,600
Inquiry Clerk/AIO					1	2			3	29,500	88,500
	<u>4</u>	<u>31</u>	<u>18</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>1</u>	<u>1</u>	<u>64</u>	<u>43,209</u>	<u>2,765,350</u>

1992/93 Complaints	4,008	2,435	n/a	12,000
% Increase/Decrease	-10%	-10%	n/a	-10%
Projected Complaints	3,607	2,192	90	10,800
Productivity Target	160	174	30	4,000

Administration Staff Requirements:										
	Ex. Officer	Personnel	Accounting	Media	Info Sys	Secretarial	Librarian	Total	Average Salary	Salary Cost
Executive Officer	1							1	55,700	55,700
Human Resource Supervisor		1						1	42,200	42,200
Financial Accountant			1					1	42,200	42,200
Media Director				1				1	39,300	39,300
Information Systems Manager					1			1	47,900	47,900
Data Control Officer					1			1	37,000	37,000
Snr Info Systems Officer					1			1	27,600	27,600
Information Systems Officer					1			1	21,600	21,600
Administration Officer		1						1	29,300	29,300
Administration Assistant		1	2					3	21,200	63,600
Media Assistant				1				1	24,100	24,100
Secretary						4		4	24,100	96,400
Librarian							1	1	29,300	29,300
	<u>1</u>	<u>3</u>	<u>3</u>	<u>2</u>	<u>4</u>	<u>4</u>	<u>1</u>	<u>18</u>	<u>30,900</u>	<u>556,200</u>

Total Staff Requirement and Base Salary Cost	82	3,321,550
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Total Staff Requirement and Base Salary Cost	82	3,321,550
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Salary Related Expenses:		
Payroll Tax		197,509
Superannuation		332,155
Annual Leave		20,000
Long Service Leave		85,000
Annual Leave Loading		27,000
Allowances		14,000
Overtime		0
Workers Comp Insurance		18,000
Meals		1,000
Fringe Benefits Tax		4,000
Total Salary Related		698,664

Rental Expense (Office):	600,732
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Square Metres per Employee	18	(1992/93 - 20 square metres)
Total Space Requirement	1,476	(1992/93 - 1,439 square metres)
Annual Rental Per Square Metre (\$)	407	(1992/93 - \$407 per square metre)

Rental Expense (Car Parking):	25,000
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Other Working & Maintenance Expenses:	557,513
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% of Total Expenditure	12%	(1992/93 - 12% or \$450,000)
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Depreciation Charge	161,000
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Protected Items - Special Investigations	150,000
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TOTAL EXPENDITURE	5,514,459
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Less: Unfunded Items		
Superannuation		332,155
Long Service Leave		85,000
Depreciation		161,000
Total Unfunded		578,155

TOTAL RECURRENT FUNDING REQUIRED	4,936,304
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NSW OMBUDSMAN - FUNDING MODEL (1988/89 COMPLAINT PROFILE - 25% INCREASE)

Investigation Staff Requirements:											Average Salary	Salary Cost
	Statutory	Police	General	FOI	TIU	Inquiries	Aboriginal	Other	Total			
Ombudsman	1								1	128,500	128,500	
Deputy Ombudsman	1								1	116,750	116,750	
Assistant Ombudsman	2								2	95,000	190,000	
Complaints Manager		1	1						2	58,000	116,000	
SIO/SEA		8	5		1			1	15	46,400	696,000	
Investigation Officer		23	13	3	1		1		41	40,800	1,672,800	
Investigation Assistant		9	5						14	25,000	350,000	
Senior Inquiry Clerk						1			1	34,600	34,600	
Inquiry Clerk/AIO					1	3			4	29,500	118,000	
	4	41	24	3	3	4	1	1	81	42,255	3,422,650	

1992/93 Complaints	4,008	2,435	n/a	12,000
% Increase/Decrease	25%	25%	n/a	25%
Projected Complaints	5,010	3,044	90	15,000
Productivity Target	160	174	30	4,000

Administration Staff Requirements:								Average Salary	Salary Cost	
	Ex. Officer	Personnel	Accounting	Media	Info Sys	Secretarial	Librarian	Total		
Executive Officer	1							1	55,700	55,700
Human Resource Supervisor		1						1	42,200	42,200
Financial Accountant			1					1	42,200	42,200
Media Director				1				1	39,300	39,300
Information Systems Manager					1			1	47,900	47,900
Data Control Officer					1			1	37,000	37,000
Snr Info Systems Officer					1			1	27,600	27,600
Information Systems Officer					1			1	21,600	21,600
Administration Officer		1						1	29,300	29,300
Administration Assistant		1	2					3	21,200	63,600
Media Assistant				1				1	24,100	24,100
Secretary						4		4	24,100	96,400
Librarian							1	1	29,300	29,300
	1	3	3	2	4	4	1	18	30,900	556,200

Total Staff Requirement and Base Salary Cost	99	3,978,850
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Total Staff Requirement and Base Salary Cost	99	3,978,850
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Salary Related Expenses:		
Payroll Tax		243,520
Superannuation		397,885
Annual Leave		20,000
Long Service Leave		85,000
Annual Leave Loading		27,000
Allowances		14,000
Overtime		0
Workers Comp Insurance		18,000
Meals		1,000
Fringe Benefits Tax		4,000
Total Salary Related		810,405

Rental Expense (Office):	725,274
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Square Metres per Employee	18	(1992/93 - 20 square metres)
Total Space Requirement	1,782	(1992/93 - 1,439 square metres)
Annual Rental Per Square Metre (\$)	407	(1992/93 - \$407 per square metre)

Rental Expense (Car Parking):	25,000
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Other Working & Maintenance Expenses:	664,743
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% of Total Expenditure	12%	(1992/93 - 12% or \$450,000)
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Depreciation Charge	161,000
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Protected Items - Special Investigations	150,000
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TOTAL EXPENDITURE	6,515,272
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Less: Unfunded Items		
Superannuation		397,885
Long Service Leave		85,000
Depreciation		161,000
Total Unfunded		643,885

TOTAL RECURRENT FUNDING REQUIRED	5,871,387
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NSW OMBUDSMAN - FUNDING MODEL (1988/89 COMPLAINT PROFILE - 25% DECREASE)

Investigation Staff Requirements:										Average Salary	Salary Cost
	Statutory	Police	General	FOI	TIU	Inquiries	Aboriginal	Other	Total		
Ombudsman	1								1	128,500	128,500
Deputy Ombudsman	1								1	116,750	116,750
Assistant Ombudsman	2								2	95,000	190,000
Complaints Manager		1	1						2	58,000	116,000
SIO/SEA		5	3		1			1	10	46,400	464,000
Investigation Officer		14	8	3	1		1		27	40,800	1,101,600
Investigation Assistant		6	3						9	25,000	225,000
Senior Inquiry Clerk						1			1	34,600	34,600
Inquiry Clerk/AIO					1	2			3	29,500	88,500
	4	26	15	3	3	3	1	1	56	44,017	2,464,950

1992/93 Complaints	4,008	2,435	n/a	12,000
% Increase/Decrease	-25%	-25%	n/a	-25%
Projected Complaints	3,006	1,826	90	9,000
Productivity Target	150	174	30	4,000

Administration Staff Requirements:								Total	Average Salary	Salary Cost
	Ex. Officer	Personnel	Accounting	Media	Info Sys	Secretarial	Librarian			
Executive Officer	1							1	55,700	55,700
Human Resource Supervisor		1						1	42,200	42,200
Financial Accountant			1					1	42,200	42,200
Media Director				1				1	39,300	39,300
Information Systems Manager					1			1	47,900	47,900
Data Control Officer					1			1	37,000	37,000
Snr Info Systems Officer					1			1	27,600	27,600
Information Systems Officer					1			1	21,600	21,600
Administration Officer		1						1	29,300	29,300
Administration Assistant		1	2					3	21,200	63,600
Media Assistant				1				1	24,100	24,100
Secretary						4		4	24,100	96,400
Librarian							1	1	29,300	29,300
	1	3	3	2	4	4	1	18	30,900	556,200

Total Staff Requirement and Base*Salary Cost	74	3,021,150
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Total Staff Requirement and Base Salary Cost	74	3,021,150
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Salary Related Expenses:		
Payroll Tax		176,481
Superannuation		302,115
Annual Leave		20,000
Long Service Leave		85,000
Annual Leave Loading		27,000
Allowances		14,000
Overtime		0
Workers Comp Insurance		18,000
Meals		1,000
Fringe Benefits Tax		4,000
Total Salary Related		647,596

Rental Expense (Office):	585,673
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Square Metres per Employee	18	(1992/93 - 20 square metres)
Total Space Requirement	1,332	(1992/93 - 1,439 square metres)
Annual Rental Per Square Metre (\$)	407	(1992/93 - \$407 per square metre)

Rental Expense (Car Parking):	25,000
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Other Working & Maintenance Expenses:	513,530
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% of Total Expenditure	12%	(1992/93 - 12% or \$450,000)
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Depreciation Charge	161,000
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Protected Items - Special Investigations	150,000
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TOTAL EXPENDITURE	5,103,949
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Less: Unfunded Items		
Superannuation		302,115
Long Service Leave		85,000
Depreciation		161,000
Total Unfunded		548,115

TOTAL RECURRENT FUNDING REQUIRED	4,555,834
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Document E

**Final Report Addendum
from KPMG Peat Marwick Consultants (Sydney)
dated 23 July, 1993**



Peat Marwick Management Consultants

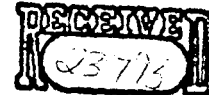
The KPMG Centre
45 Clarence Street
Sydney NSW 2000 Australia

PO Box H67
Australia Square
Sydney NSW 2000
Australia

Telephone: (02) 335 7000
Facsimile: (02) 299 7077
Telex: AA22482
DX 1056 SYDNEY

Our ref: Ombuds^{Australia}93/2207/L/Addendum

23 July 1993



Mr John Turner MP
Chairman
Joint Committee of the Office of the Ombudsman
Room 1144
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Mr Turner

Re: Management Review of the NSW Office of the Ombudsman

In response to issues raised during our meeting with the Joint Committee of the Office of the Ombudsman ("Joint Committee") on 20 July 1993, KPMG Peat Marwick Management Consultants ("KPMG") forward to you the following comments and information as an Addendum to our final report issued on 16 July 1993. References to your letter of 21 July 1993, which outlines the specific issues which need to be addressed, are provided below.

- A computer disk has been enclosed which provides an Excel spreadsheet containing the "Complaint Resource and Funding Model". A hard copy of the model is provided in Appendix 1 to this letter. (Point "a")

The 'Complaint Resource Model' has been integrated with the 'Funding Model' (originally provided in Appendix 15 of our report). The result is that any changes made to the complaint resource model (e.g. alterations to the complaint profile) will automatically feed through to the funding model. This facilitates easy identification of the funding implications of changes in variables in the complaint resource model.

A brief explanation of how the model works is provided below.

The model contains estimates of the average time required to be spent by Senior Investigation Officers and Investigation Officers in the handling of general area and police complaints according to complaint outcome. The breakdown of complaint outcomes reflects the "complaint profile", as discussed on pages 15-16 of the final report (including complaints received by the Ombudsman for which complainants request that the Ombudsman review the initial determinations made).

The model is operated by entering variable data into the shaded fields. The funding implications for different office operation scenarios can be assessed by altering any or all of the four key variables (complaint profile, investigative time required to complete complaints, the available time of officers to actually investigate, and the overall number of complaints). (Point "b")

- We note that the effect of the Police Service (Complaints, Discipline and Appeals) Amendment Bill 1993, effective as of 1 July 1993, on the resource requirements of the Ombudsman's Office has not been reflected in the model. This is due to the uncertainty surrounding the impact of this new legislation, and the implications this will have on resource requirements.

Notwithstanding, the model has been designed in such a way that it can be easily modified in the future to include complaint outcomes resulting from the new legislation, such as complaints monitored by the Ombudsman or direct investigations. Estimates of the average time required to process these types of complaints would also need to be inputted into the model. The inclusion of these variables within the complaint resource model would enable the impact of the new legislation on investigative staffing levels to be determined.

Similar modifications could be made to the complaint resource model in the future in response to other developments that impact upon the number of investigative staff required by the Ombudsman's Office.

- KPMG has adjusted the model to reflect the new information supplied by the Ombudsman's Office during our meeting of 20 July 1993, regarding the percentage of total complaints received by the Ombudsman for which complainants request that the Ombudsman review the initial determinations made. There was no impact on the required number of Senior Investigation Officers and Investigation Officers required as a result of this revision. The complaint resource model, which includes estimates of the average time required to review complaints, indicates that proposed investigative staffing levels can absorb the resultant increase in workload. (Point "c")
- Details of calculations of the figures:
 - "198" in Section 4.3.4, indicating the total number of complaints finalised per investigation officer in 1992/93, and
 - "267" in Section 4.6.2, indicating the performance measure per investigation officer in the Police Team,

are provided in Appendix 2 to this letter, as requested. The key difference between the two figures is that the "198" figure is calculated based on all staff involved directly in complaint handling activities whether on a full-time basis or not, whilst the "267" figure is calculated using staff involved on a full-time basis only. (Point "d")

- We have assumed in our calculations of the required number of Senior Investigation Officers and Investigation Officers that 70% of their time is available to spend processing complaints. This number

has been based on our experience with other similar organisations, and reflects what we believe is a reasonable split of time between non-work and work-related activities for these members of staff. The estimate of 70% allows for the following time to be spent, on average, on activities other than the processing of complaints:

- 4 weeks annual leave;
- 2 weeks public holidays;
- 2 weeks sick leave; and
- an average of approximately 6 hours per week (i.e. almost a full working day) to be spent on “other” activities including:
 - .. administration;
 - .. training;
 - .. public awareness visits; and
 - .. other activities not directly related to the processing of complaints.

If this assumption were to change (e.g. to 60%) the number of Senior Investigation Officers and Investigation Officers required to process complaints would change accordingly. (Point “e”)

- The last paragraph on page 17 of the final report reads:

“Statistics indicating the number of complaints declined or not investigated due to insufficient resources were not available. In response to this, we discussed with the Assistant Ombudsmen the need to decline some complaints, and not to investigate other complaints following preliminary inquiry or a police investigation, due to insufficient resources. It was their view that 1988/89 was the last year in which complaints were either not declined or did not proceed to investigation as a result of a lack of resources. The comparative complaint profiles in the general and police areas in 1989/89 and 1992/93 are shown below:...”.

It was brought to KPMG’s attention during the meeting that the meaning of the underlined sentence is not clear. We would therefore like to reword the sentence so that the paragraph reads as follows:

“Statistics indicating the number of complaints declined or not investigated due to insufficient resources were not available. In response to this, we discussed with the Assistant Ombudsmen the need to decline some complaints, and not to investigate other complaints following preliminary inquiry or a police investigation, due to insufficient resources. The Assistant Ombudsmen indicated that 1988/89 was the last time when the Ombudsman’s decisions were not influenced by insufficient resources. The comparative complaint profiles in the general and police areas in 1989/89 and 1992/93 are shown below:...” (Point “f”)

- The second paragraph on page 26 of the final report reads:

“We believe that the majority of changes resulting from the legislation can be accommodated within the existing investigative functions of the recommended Police Team. However, we propose that one investigative officer be made responsible for the conciliation functions resulting from the new legislation, and be provided appropriate training in this function (including the audit role). This person should liaise with the Senior Executive Assistant in developing approaches to the conciliation of complaints.”

Under the proposed structure we propose that the title of the Senior Executive Assistant referred to in this paragraph be changed to Special Projects Manager. The words Senior Executive Assistant should therefore read Special Projects Manager in this paragraph. (Point “g”)

- Questions were raised during the meeting regarding responsibility for implementing the public awareness strategy (discussed in Section 6.4 of the final report), and the adequacy of resources to ensure the strategy is properly implemented under the proposed structure. This issue is discussed briefly in Section 2.4 of the report. KPMG’s proposal regarding the implementation of the public awareness strategy is discussed in more detail below.

Whilst we recommend that under the proposed structure the Ombudsman and Deputy Ombudsman have primary responsibility for undertaking speaking engagements and public awareness visits, we note that the emphasis should be on their undertaking speaking engagements in preference to public awareness visits. We believe that the removal of the Deputy Ombudsman’s direct involvement in complaint handling activities should allow him greater time to undertake public awareness initiatives.

The Media Officer and her assistant would continue to be resources available to co-ordinate and implement the public awareness strategy under the proposed structure.

KPMG would envisage the Assistant Ombudsmen, and potentially the team Managers, providing support to the Ombudsman and Deputy Ombudsman in undertaking speaking engagements to raise the profile of the Ombudsman’s Office. They should also be involved in undertaking public awareness visits.

Under the proposed structure the Aboriginal Liaison Officer has not be allocated a complaint case load (although this does not preclude her from partaking in complaint handling activities if required). It is recommended that this position focus upon raising the level of awareness of the Ombudsman’s Office amongst Aboriginal and Torres Strait Islander communities.

Public awareness visits would continue to be undertaken by Senior Investigation Officers and Investigation Officers under the proposed structure. These would continue to be done either in conjunction with complaint investigation activities (e.g whilst visiting a prisoner in jail), or as part of a specific public awareness initiative. Time spent

by Senior Investigation Officers and Investigation Officers on public awareness visits would come out of the 6 hours per week (approximately) allowed in our calculations for "other" activities (this has been discussed previously in this letter). We do not envisage these officers undertaking speaking engagements, although some flexibility in this regard may be required depending on the audiences being targeted.

The Deputy Ombudsman provided KPMG on 21 July 1993, with a projected estimate of public awareness / prison visits completed by the Ombudsman's Office in 1992/93. The estimate was 95 person days. We believe that the above recommendations for public awareness visits will adequately cover this requirement.

We hope this information clarifies any outstanding points in relation to the final report. However, should you have any queries please do not hesitate to call either myself or Liz Scott.

KPMG would like to thank the Joint Committee for the opportunity to be of assistance on this interesting project, and would welcome the opportunity to be of assistance again in the future.

Yours faithfully
KPMG PEAT MARWICK MANAGEMENT CONSULTANTS



R J LUMLEY
Partner

Encl.

APPENDIX 1
COMPLAINT RESOURCE AND FUNDING
MODEL

NSW OMBUDSMAN - COMPLAINT RESOURCE AND FUNDING MODEL

COMPLAINT PROFILE -

1992/93

PART 1 - DETERMINATION OF COMPLAINT NUMBERS BY INVESTIGATION OFFICER

Police Complaints:

<i>Complaint Outcomes:</i>	Complaint Profile (%)	Time Estimate (hours)
Declined at Outset	40.0%	1.70
Declined after Preliminary Inquiry	23.7%	4.10
Conciliation	15.0%	1.45
Police Investigation	21.2%	8.50
Re-Investigation	0.1%	840.00
Direct Investigation		
Other		
Other		
Other		
	100.0%	
Complainant Not Satisfied	8.0%	1.00
Available Hours per Officer per annum	1,820	
Available Task Time (%)	70%	
Available Investigation Time (hours)	1,274	
Complaint Target per Officer	287	
Efficiency Variation		
Revised Complaint Target per IO (incl. complaints reviewed)	287	
Complaints per Actual Officer Employed	267	

General Complaints:

<i>Complaint Outcomes:</i>	Complaint Profile (%)	Time Estimate (hours)
Outside Jurisdiction (Simple)	19.8%	0.00
Outside Jurisdiction (Complex)	2.2%	4.00
Declined at Outset	43.7%	1.25
Declined after Preliminary Inquiry	26.6%	4.55
Resolution	6.3%	6.00
Investigation	1.4%	167.00
Other		
Other		
Other		
	100.0%	
Complainant Not Satisfied	5.0%	3.50
Total Available Hours per person pa	1,820	
Available Task Time (%)	70%	
Available Investigation Time (hours)	1,274	
Complaints per Investigation Officer	282	
Efficiency Variation		
Revised Complaint Target per IO (incl. complaints reviewed)	282	
Complaints per Actual Officer Employed	271	

Time estimates shown reflect Senior Investigation Officer & Investigation Officer input only

PART 2 - DETERMINATION OF FUNDING REQUIREMENTS

Investigation Staff Requirements:										Average Salary	Salary Cost
	Statutory	Police	General	FOI	TIIU	Inquiries	Aboriginal	Other	Total		
Ombudsman	1								1	128,500	128,500
Deputy Ombudsman	1								1	116,750	116,750
Assistant Ombudsman	2								2	95,000	190,000
Complaints Manager		1	1						2	58,000	116,000
SIO/SEA		4	2		1			1	8	46,400	371,200
Investigation Officer		11	7	3	1		1		23	40,800	938,400
Investigation Assistant		5	3						8	25,000	200,000
Senior Inquiry Clerk						1			1	34,600	34,600
Inquiry Clerk/AIO					1	2			3	29,500	88,500
	4	21	13	3	3	3	1	1	49	44,570	2,183,950

Complaint Numbers	4,008	2,435		
Complaints Reviewed	321	122		
Total Complaint Numbers	4,329	2,557	90	12,000
Productivity Target	287	282	30	4,000

Administration Staff Requirements:							Total	Average Salary	Salary Cost	
	Ex. Officer	Personnel	Accounting	Media	Info Sys	Secretarial	Librarian			
Executive Officer	1							1	55,700	55,700
Human Resource Supervisor		1						1	42,200	42,200
Financial Accountant			1					1	42,200	42,200
Media Director				1				1	39,300	39,300
Information Systems Manager					1			1	47,900	47,900
Data Control Officer					1			1	37,000	37,000
Snr Info Systems Officer					1			1	27,600	27,600
Information Systems Officer					1			1	21,600	21,600
Administration Officer		1						1	29,300	29,300
Administration Assistant		1	2					3	21,200	63,600
Media Assistant				1				1	24,100	24,100
Secretary						4		4	24,100	96,400
Librarian							1	1	29,300	29,300
	1	3	3	2	4	4	1	18	30,900	556,200

Total Staff Requirement and Base Salary Cost 67 2,740,150

Total Staff Requirement and Base Salary Cost	67	2,740,150
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Salary Related Expenses:

Payroll Tax	156,811
Superannuation	274,015
Annual Leave	20,000
Long Service Leave	85,000
Annual Leave Loading	27,000
Allowances	14,000
Overtime	0
Workers Comp Insurance	18,000
Meals	1,000
Fringe Benefits Tax	4,000
Total Salary Related	599,826

Rental Expense (Office):	585,673
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Square Metres per Employee	18
Total Space Requirement	1,206
Annual Rental Per Square Metre (\$)	407

Rental Expense (Car Parking):	25,000
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Other Working & Maintenance Expenses:	474,078
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% of Total Expenditure ~	12%
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Depreciation Charge	161,000
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Protected Items - Special Investigations	150,000
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TOTAL EXPENDITURE	4,735,726
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Less: Unfunded Items

Superannuation	274,015
Long Service Leave	85,000
Depreciation	161,000
Total Unfunded	520,015

TOTAL RECURRENT FUNDING REQUIRED	4,215,711
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NSW OMBUDSMAN - COMPLAINT RESOURCE AND FUNDING MODEL

COMPLAINT PROFILE -

1988/89

PART 1 - DETERMINATION OF COMPLAINT NUMBERS BY INVESTIGATION OFFICER

Police Complaints:

<i>Complaint Outcomes:</i>	Complaint Profile (%)	Time Estimate (hours)
Declined at Outset	42.1%	1.70
Declined after Preliminary Inquiry	25.4%	4.10
Conciliation	9.0%	1.45
Police Investigation	23.0%	8.50
Re-Investigation	0.5%	840.00
Direct Investigation		
Other		
Other		
Other		
	100.0%	
Complainant Not Satisfied	1.0%	1.00
Available Hours per Officer per annum	1,820	
Available Task Time (%)	70%	
Available Investigation Time (hours)	1,274	
Complaint Target per Officer	160	
Efficiency Variation		
Revised Complaint Target per IO (incl. complaints reviewed)	160	
Complaints per Actual Officer Employed	160	

General Complaints:

<i>Complaint Outcomes:</i>	Complaint Profile (%)	Time Estimate (hours)
Outside Jurisdiction (Simple)	16.1%	0.00
Outside Jurisdiction (Complex)	1.8%	4.00
Declined at Outset	34.9%	1.25
Declined after Preliminary Inquiry	36.9%	4.55
Resolution	7.6%	6.00
Investigation	2.7%	167.00
Other		
Other		
Other		
	100.0%	
Complainant Not Satisfied	1.0%	3.50
Total Available Hours per person pa	1,820	
Available Task Time (%)	70%	
Available Investigation Time (hours)	1,274	
Complaints per Investigation Officer	179	
Efficiency Variation		
Revised Complaint Target per IO (incl. complaints reviewed)	179	
Complaints per Actual Officer Employed	174	

Time estimates shown reflect Senior Investigation Officer & Investigation Officer input only

PART 2 - DETERMINATION OF FUNDING REQUIREMENTS

Investigation Staff Requirements:

	Statutory	Police	General	FOI	TIU	Inquiries	Aboriginal	Other	Total	Average Salary	Salary Cost
Ombudsman	1								1	128,500	128,500
Deputy Ombudsman	1								1	116,750	116,750
Assistant Ombudsman	2								2	95,000	190,000
Complaints Manager		1	1						2	58,000	116,000
SIO/SEA		6	4		1			1	12	46,400	556,800
Investigation Officer		19	10	3	1		1		34	40,800	1,387,200
Investigation Assistant		7	4						11	25,000	275,000
Senior Inquiry Clerk						1			1	34,600	34,600
Inquiry Clerk/AIO					1	2			3	29,500	88,500
	4	33	19	3	3	3	1	1	67	43,184	2,893,350

Complaint Numbers	4,008	2,435
Complaints Reviewed	40	24
Total Complaint Numbers	4,048	2,459
Productivity Target	160	179

	90	12,000
	30	4,000

Administration Staff Requirements:

	Ex. Officer	Personnel	Accounting	Media	Info Sys	Secretarial	Librarian	Total	Average Salary	Salary Cost
Executive Officer	1							1	55,700	55,700
Human Resource Supervisor		1						1	42,200	42,200
Financial Accountant			1					1	42,200	42,200
Media Director				1				1	39,300	39,300
Information Systems Manager					1			1	47,900	47,900
Data Control Officer					1			1	37,000	37,000
Snr Info Systems Officer					1			1	27,600	27,600
Information Systems Officer					1			1	21,600	21,600
Administration Officer		1						1	29,300	29,300
Administration Assistant		1	2					3	21,200	63,600
Media Assistant				1				1	24,100	24,100
Secretary						4		4	24,100	96,400
Librarian							1	1	29,300	29,300
	1	3	3	2	4	4	1	18	30,900	556,200

Total Staff Requirement and Base Salary Cost								85		3,449,550
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Total Staff Requirement and Base Salary Cost	85	3,449,550
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Salary Related Expenses:		
Payroll Tax		206,469
Superannuation		344,955
Annual Leave		20,000
Long Service Leave		85,000
Annual Leave Loading		27,000
Allowances		14,000
Overtime		0
Workers Comp Insurance		18,000
Meals		1,000
Fringe Benefits Tax		4,000
Total Salary Related		720,424

Rental Expense (Office):	622,710
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Square Metres per Employee	1.8
Total Space Requirement	1,530
Annual Rental Per Square Metre (\$)	407

Rental Expense (Car Parking):	25,000
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Other Working & Maintenance Expenses:	578,122
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% of Total Expenditure	12%
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Depreciation Charge	161,000
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Protected Items - Special Investigations	150,000
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TOTAL EXPENDITURE	5,706,806
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Less: Unfunded Items		
Superannuation		344,955
Long Service Leave		85,000
Depreciation		161,000
Total Unfunded		590,955

TOTAL RECURRENT FUNDING REQUIRED	5,115,85
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APPENDIX 2
CALCULATION OF COMPLAINTS
FINALISED PER INVESTIGATION OFFICER

CALCULATION OF COMPLAINTS FINALISED PER INVESTIGATION OFFICER

- 1) *Re Section 4.3.4 of Final Report: Calculation of "198" complaints finalised per investigation officer in 1992/93*

Inputs:

- Total Complaints Finalised in 1992/93 = 5,754
- Total Investigative Staff = 29 i.e. the following staff at year end:
 - 1 x Principal Investigation Officer
 - 4 x Senior Investigation Officers
 - 22 x Investigation Officers (excluding 1 x Investigation Officer, Aboriginal Complaints)
 - 2 x Executive Assistants (Police)

NB. This figure includes people who are not dedicated on a full-time basis to complaint handling activities.

Calculation:

Total Complaints Finalised 1992/93 / Total Investigative Staff

$$\begin{aligned} &= 5,754 / 29 \\ &= 198 \end{aligned}$$

- 2) *Re Section 4.6.2 of Final Report: Calculation of "267" performance measure per investigation officer in the Police Team*

Inputs:

- Police Complaints Received in 1992/93 = 4,008
- Proposed Number of Senior Investigation Officers and Investigation Officers = 15

NB. This figure represents staff dedicated to complaint handling activities (i.e. full-time equivalents).

Calculation:

Police Complaints Received 1992/93 / Proposed Number of Senior Investigation Officers and Investigation Officers

$$\begin{aligned} &= 4,008 / 15 \\ &= 267 \end{aligned}$$

Document F

**Office of the Ombudsman,
Preliminary Submission to Joint Committee on the Ombudsman,
KPMG Peat Marwick Final Report,
20 July, 1993**

OFFICE OF THE OMBUDSMAN

**PRELIMINARY SUBMISSION TO THE
JOINT COMMITTEE ON THE OMBUDSMAN**

KPMG PEAT MARWICK FINAL REPORT

DATE: 20 July 1993

OFFICE OF THE OMBUDSMAN

**PRELIMINARY SUBMISSION TO THE
JOINT COMMITTEE ON THE OMBUDSMAN**

KPMG PEAT MARWICK FINAL REPORT

1 Introduction

1.1 The Committee's Terms of Reference for the current Inquiry are to:

- assess the adequacy of the funds and resources available to the Ombudsman to effectively perform his functions
- examine the Ombudsman's case for an increase in funding for his Office
- recommend any changes to funding levels necessary for the Ombudsman to perform his functions

1.2 In the course of the Inquiry the Committee decided to review the operations of the Ombudsman to ensure that activities are being performed efficiently and effectively.

1.3 The Committee engaged KPMG Peat Marwick to conduct a management review the objectives of which are set out at 1.1 of the final report.

1.4 In view of the short time span between the submission of the final report and its consideration by both the Ombudsman and the Committee, this preliminary submission addresses only those aspects of the KPMG report which form an integrated set of conclusions and recommendations concerning the appropriate level of funding. The submission examines whether these conclusions and recommendations are correct in their

calculations and workings, and internally consistent.. The submission does not address other conclusions and recommendations in the final report which are independent of funding and resources.

2 The Funding Model - General Observations

2.1 The central feature of the KPMG report is a funding/staff "model" which is based on or driven not by three variables or inputs, as the report argues, but four:

- the total number of complaints
- the complaint profile
- the time taken to process individual types of complaints
- performance measures

which, in turn, produce the output i.e. the requisite resources/funding required to meet the inputs.

2.2 The complaint profile means the way in which the Ombudsman determines the complaints - the outcomes i.e. no. declined at outset; no. declined after preliminary inquiries; no. of investigations etc.

2.3 The total number of complaints, time taken to process individual types of complaints and the performance measures are independent in the sense that should e.g. the total number of complaints increase, the performance measures may remain static. In that case, however, the output, the funding/staff required to process the increase in complaints, would increase.

2.4 On the other hand, the total number of complaints, the complaint profile and the performance measures are interdependent, in two senses. Firstly, a variation in the profile e.g. an increase in the number of complaints investigated could be offset by varying one or more of the performance

measures producing a revenue neutral result. In that case, the Ombudsman would not meet the performance measures. The second sense in which the total number of complaints, the complaint profile and the performance measures are interdependent is shown by the fact that two of the performance measures recommended in the KPMG report (4.6.2 and 4.6.4) are in fact directly related to total complaint numbers and to the complaint profile. These are examined later in this submission.

2.5 The report notes:

If any of these variables change, the number of investigative staff required will also change. If, for example, the complaint profile was amended by a reduction in the proportion of complaints declined prior to preliminary enquiry or investigation, the number of investigative staff required would increase (subject to the other variables remaining constant) (P.17)

(emphasis added)

2.6 As a general observation, it should be noted that, to the extent that an increase in the number of complaints produces an increase in the funding/staff required to process these complaints (if the performance measures are to be met), the model implicitly supports the Ombudsman's contention that his Office is demand driven.

3 The Funding/Staff Model - Specific Conclusions and Recommendations

3.1 The methodology employed by KPMG Peat Marwick is set out in 2.5.2 of the report. It consists, essentially, of the following:

- a breakdown of complaint outcomes, the "profile"
- the application of total complaints received in 1992/93 to the profile
- the calculation of the total investigation officer hours required to process the 1992/93 complaint numbers and profile, and hence the

total number of investigation officers required - 24 (P.16)

3.2 It is immediately obvious that there is a significant omission in the report so far as this process is required. The report does not detail the formula or calculations used to determine the number of investigation officer hours required to process either the separate outcomes in the profile, or the total profile. Similarly, there are no calculations shown for the time taken to process individual complaints. There are no working papers on these calculations in the Appendices. The implications of this omission for the running of the model are discussed later in this submission.

3.3 The absence of these calculations is all the more significant given the report's conclusion that:

A direct comparison of the number of staff involved in handling complaints under the current structure and the proposed structure cannot be made.

(P.16)

3.4 Despite the report's conclusion noted at 2.5 above, it is clear that the recommended operation of the model is based on three specific assumptions:

- total complaints received in 1992/93
- 1992/93 complaint profile (see p.16)
- the specific performance measures 4.6.2 - 4.6.6 (see pp.27-29)

3.5 Total Complaints - Complaint Profile 1992/93

3.5.1 It is clear from Appendix 15 that a variation in complaints received - increase or decrease - can be factored into the model and a funding result produced. Although the Committee and the Ombudsman could do this calculation now, they would be totally

reliant on the undisclosed figures or formula for calculating the necessary investigation hours i.e. the number of investigation officers required as well as the time taken to process individual types of complaints. Notwithstanding this serious omission, the report proposes that the number of investigation officers be reduced to 24.

- 3.5.2 The only reference in the report to such calculations appears on p.16:

Based on this analysis, we calculated that a total of approximately 11,200 hours would be required by Senior Investigation Officers and Investigation Officers to process general area complaints based on the 1992/93 complaint numbers and profile. In the police area, a total of approximately 18,900 hours would be required.

(emphasis added)

- 3.5.3 On the other hand, neither the Committee nor the Ombudsman could factor a variation in the complaint profile into the model at all, because of the absence of any formula for calculating investigation hours per discrete outcomes e.g. declines, conciliation investigations. Appendix 15.2 uses a different complaint profile - 1988/89 to provide a different scenario - but again no calculations are shown for investigation hours.
- 3.5.4 This has immediate implications for the Ombudsman's new functions under the Police Service (Complaints, Discipline and Appeals) Amendment Act 1993. Three new functions are relevant - auditing of Police Service conciliation records (S.138), direct monitoring of police investigations (S.144) and direct investigations (S.153). None of these functions, particularly the latter two, form part of the 1992/93 complaint profile. Further, any change in the percentage of complaints conciliated, a matter of considerable discussion between the Committee and the Ombudsman in the past, cannot be factored into the 1992/93 complaint profile. Indeed, although the report refers to conciliation as an outcome (see pp.15

and 18), it is not referred to at all in the comparative analysis in Appendix 7.

3.5.5 Further, the tables at p.15 and p.18 of the report contain a significant error in the complaint profile. Both tables show a negligible figure of 1% for complainants seeking a review of the Ombudsman's determination. However, as the Ombudsman advised the Committee in March 1993, (Response to Questions on Notice, p.27), based on a survey of all files completed between 1 July 1992 - 17 March 1993, the correct figures are:

	Files Completed	Request for Review	%
Police	1541	126	8
General	2499	118	5

3.5.6 This error in the complaint profile must lead to an error in the calculation of investigation officer hours required to process complaints and hence in the total number of investigation officer positions required.

3.5.7 In the absence of a formula for determining the funding implications of a variation in the complaint profile, the model is inflexible. The Ombudsman is locked into a particular complaint profile.

3.6 Performance Measures

Some initial observations should be made about the performance measures.

3.6.1 Firstly, none of the measures recommended appear to be based on any discernible process of calculation or reasoning. Three of the measures appear to be based on current - 1992/93 - percentages

e.g. Average Number of Complaints Finalised per Investigation Officer (4.6.2). Level of Non-Employee and Rent Related Expenditure (4.6.3), Complaints Declined as a Percentage of Complaints Finalised (4.6.4) . The latter two are, to a large extent, based on value judgments, as are the remaining measures.

3.6.2 Secondly, as noted earlier, two of the measures Average Number of Complaints Finalised per Investigation Officer (4.6.2) and Complaints Declined as a Percentage of Complaints Finalised (4.6.3) are directly related to the 1992/93 total number of complaints and complaint profile respectively. The model can be used to calculate one aspect of a change in the first measure - by increasing/decreasing staff and funding - see Appendix 15.1.

3.6.3 However, despite the reports contention that:

The complaint resource model will determine the revised measures arising from any change in the profile
(4.6.4 p.32)

in the absence of any set of calculations or formula, the model cannot be used to calculate a variation in the second measure.

3.6.4 This anomaly is vital, because it is a policy decision for the Ombudsman or the Committee, or both, to set appropriate performance measures - particularly in respect of the number or percentage of complaints declined - conciliated, investigated etc. The Committee should consider whether the decision to recommend a performance measure of 68% for Complaints Declined as a Percentage of Complaints Finalised, the figure for 1992/93, reflects the absence of any meaningful method of calculating a variation in the complaint profile.

3.6.5 While the performance measures of 267 police complaints and 271 general complaints for Average Number of Complaints finalised per Investigation Officer (4.6.2) is based on the 1992/93 complaint

total, the report does not indicate the percentage variation which the measure represents over past years. In this regard Appendix 7 notes:

Calculations are based on a number of estimates and assumptions, particularly in regard to the average number of full-time investigation staff used to determine the relative workloads of each investigation staff member over time.

As a result of the complexities involved in determining accurate average numbers of effective full-time investigation staff over the period (due to staff turnover, positions remaining unfilled at certain times during the year and the fact that not all investigation staff would have had full investigation workload responsibilities at all times) average numbers shown have been based on estimates only and are not intended to provide an accurate record of past average complaint handling numbers. However, although conclusions should not be reached from these numbers as far as relative complaint handling efficiencies are concerned, we believe that the numbers shown do provide a reasonable indication of complaint trends over the period under review.

(emphasis added)

- 3.6.6 The performance measures are said to be based on the complaint resource model and determined from the incorporation of time estimates provided by staff into the model (pp.30-31) but again, no process of calculation is shown.
- 3.6.7 Despite the qualification in Appendix 7 noted above, the performance measure has to be judged against the complaints finalised per investigation officer in past years (see Table 4.3.4 p.28). In 1992/93 that figure was 198. It must also be judged by the total number of investigation officers in past years. In 1992-93 that figure was 29 - (See Appendix 7-5.)
- 3.6.8 Based on those figures, the performance measures when averaged - 269 - represent a recommended increase in efficiency of 35.86%, the report recommending that investigation officer positions be reduced to 24.

3.6.9 That increase in efficiency is not achievable.

3.7 The "Lag" Effect

3.7.1 The model may be eminently suitable for use in a private sector organisation or even in a government trading enterprise. In those cases any increase in demand for services can be monitored and met by expanding services through the hiring of more staff in a relatively short time frame. However, the Office of the Ombudsman is reliant on an annual appropriation from the Consolidated Fund with Forward Estimates projected a further two years into the future on a rolling basis. Treasury is totally unresponsive to requests for supplementation during a financial year (if at all) to meet a rise in complaints.

3.7.2 At best, the model would enable the Ombudsman to argue for an increase in funding/staff in forward years. This would increase the carryover figure for complaints in any given year, producing a backlog of complaints. The inevitable result is that the Ombudsman would fail the performance measure for Complaint Turnaround Times (4.6.6)

3.7.3 The recommended funding model, based on the assumptions stated in the report produces (Appendix 15.1) a funding requirement of \$4,216M. As will be seen from the attached document setting out projections/comparison to Treasury allocations, the Treasury proposes to allocate the following amounts:

1993/94	1994/95	1995/96
\$M	\$M	\$M
4,173	4,144	4,073

which will result in a deficit of

1993/94	1994/95	1995/96
\$	\$	\$
0	235,000	446,000

4 Conclusions

4.1 The Committee should ask the consultants to produce detailed working figures for their calculations as to the number of investigation officer hours required to process the 1992/93 complaint totals and a calculation or formula which can accommodate a change in the complaint profile, in order to decide whether a case has been made out for:

- a reduction in investigation officer positions
- the validity of the funding model.

**PROJECTIONS
COMPARISON TO TREASURY**

19/07/93

	1992/3	1993/4			1994/5			1995/6		
	Actual	Project	Treas.	Var.	Project	Treas.	Var.	Project	Treas.	Var.
Employee related expenses	3,307	3,494	3,536	42	3,564	3,532	(32)	3,635	3,624	(11)
Maint. & work. expenses	1,134	1,200	1,002	(198)	1,176	949	(227)	1,252	784	(468)
Depreciation	179	185	161	(24)	157	133	(24)	155	131	(24)
Total Operating expenses	4,620	4,879	4,699	(180)	4,896	4,614	(282)	5,042	4,539	(503)
Less:										
Total operating revenue	31	84	23	(61)	30	23	(7)	30	23	(7)
Loss/(profit) asset sale	7	0	0	0	0	0	0	0	0	0
NET COST OF SERVICES	4,596	4,795	4,676	(119)	4,867	4,591	(276)	5,012	4,516	(496)
Inc/(dec) in cash	(104)	(91)	(55)	36	(235)	12	247	(446)	13	459
Other adjustments	(327)	(531)	(448)	83	(488)	(459)	29	(493)	(456)	37
CON FUND ALLOCATION	4,165	4,173	4,173	0	4,144	4,144	0	4,073	4,073	0
Break even Con Fund			4173			4,379			4,519	
Con Fund Shortfall			0			235			446	

Filename: OMBUDSUM.WK1

PROJECTIONS

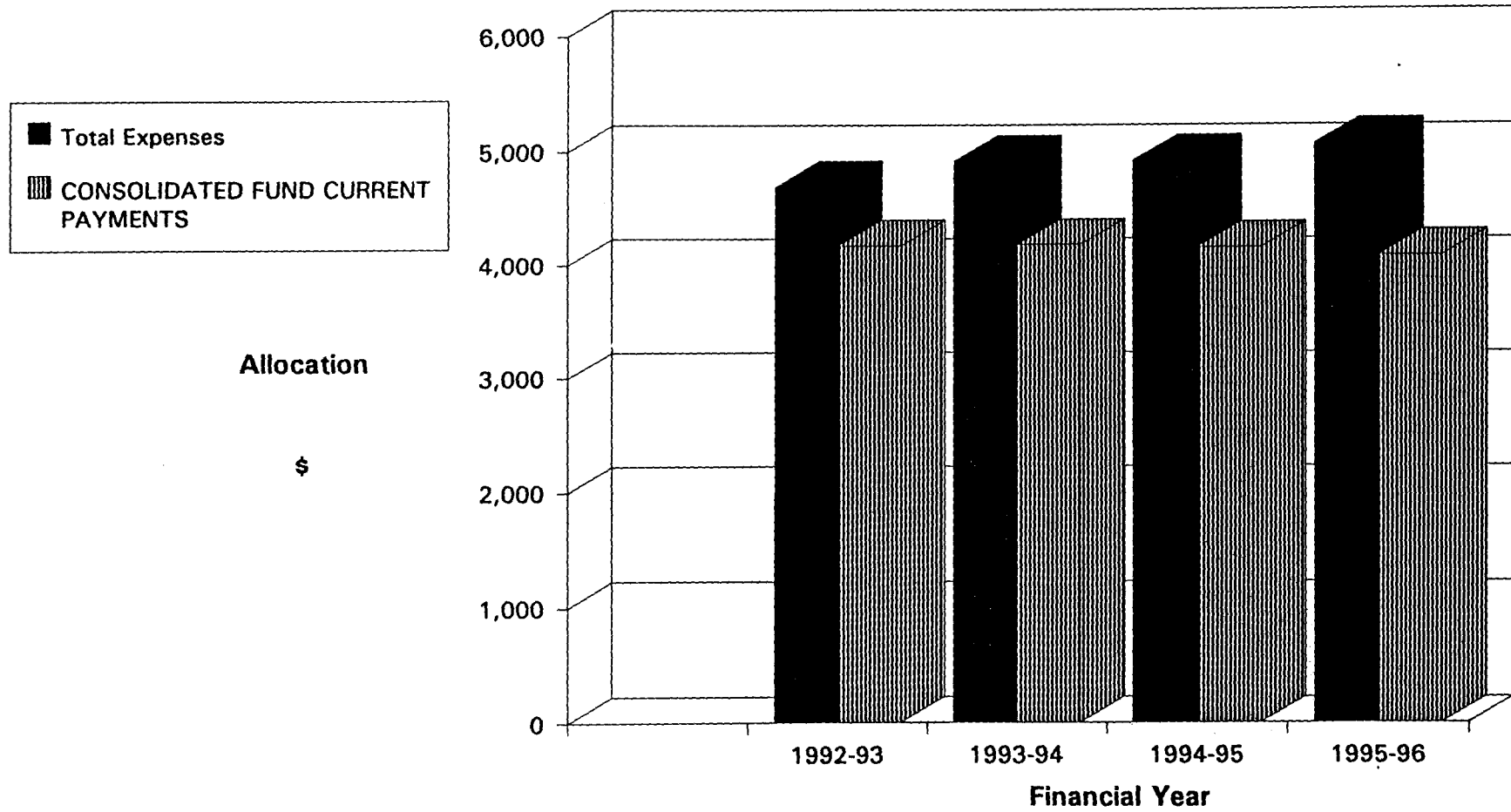
19/07/93

RECONCILIATION TO CON FUND

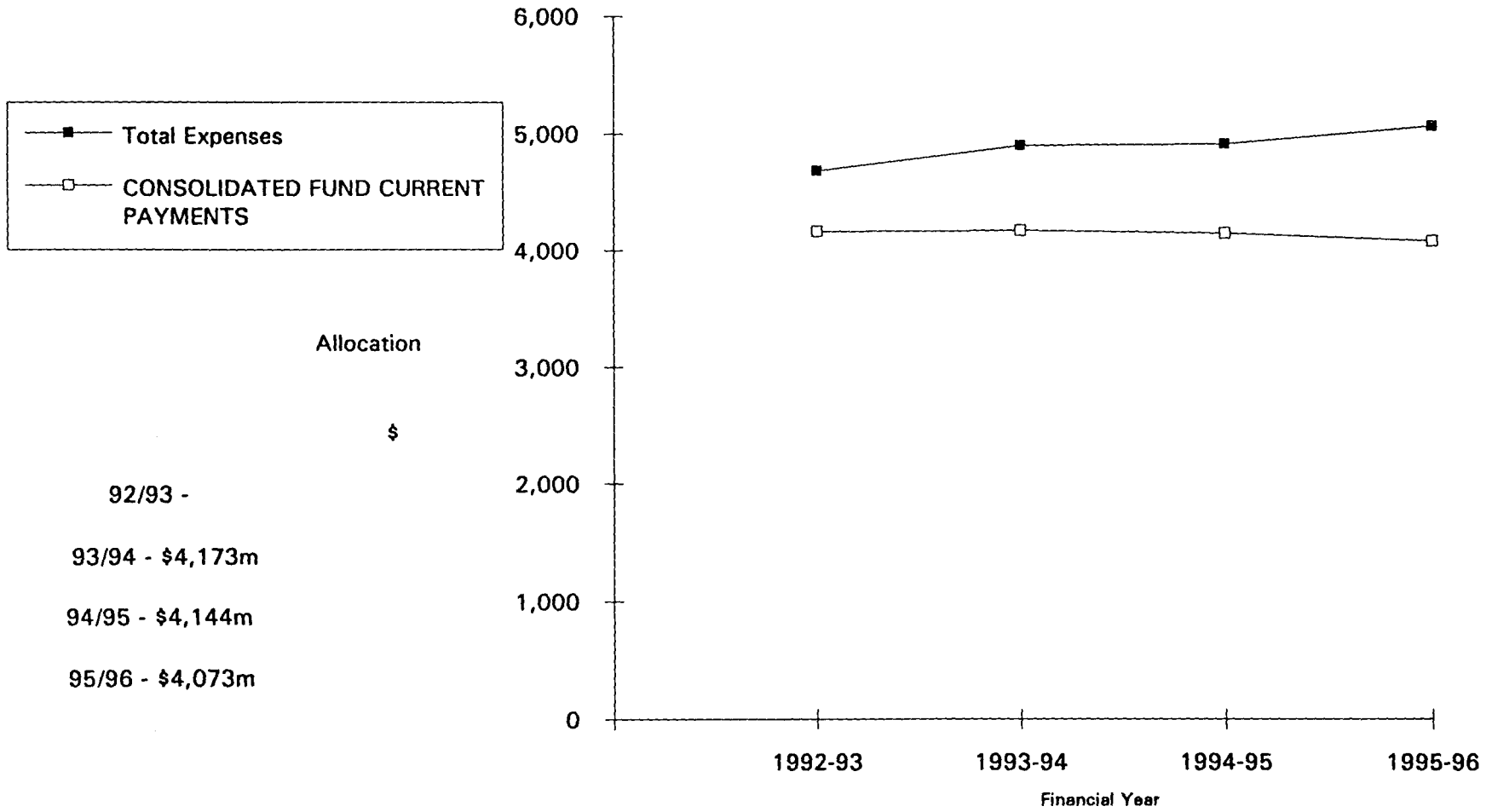
	1992/3 \$'000	1993/4 \$'000	1994/5 \$'000	1995/6 \$'000
NET COST OF SERVICES	4,596	4,795	4,867	5,012
Adjustments				
Incr/(decr) in Cash	(104)	(91)	(235)	(446)
Incr/(decr) in Receivables	4	(4)	0	0
Incr/(decr) in Prepayments	17	(17)	0	0
Decr/(incr) in Creditors	116	(7)	0	0
Non-Cash Expenses				
-Depreciation	(179)	(185)	(157)	(155)
-LSL & Superannuation	(336)	(339)	(346)	(353)
-Annual Leave Provn decr/(incr)	(11)	(9)	(5)	(5)
Purchases of Assets	70	30	20	20
Asset Sale Proceeds	(1)	0	0	0
Net Loss on Sale of Assets	(7)	0	0	0
CON FUND ALLOCATION	4,165	4,173	4,144	4,073

Filename: OMBUDREC.WK1

OFFICE OF THE OMBUDSMAN - RECURRENT FUNDING ANALYSIS



OFFICE OF THE OMBUDSMAN - RECURRENT FUNDING ANALYSIS



Document G

Office of the Ombudsman,
Submission to Joint Committee on the Ombudsman,
KPMG Peat Marwick Final Report,
2 August, 1993

OFFICE OF THE
OMBUDSMAN

SUBMISSION TO THE
JOINT COMMITTEE ON THE
OMBUDSMAN

KPMG PEAT MARWICK FINAL
REPORT

DATE: 2 August 1993

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OFFICE OF THE OMBUDSMAN
SUBMISSION TO THE JOINT COMMITTEE
ON THE OMBUDSMAN
KPMG PEAT MARWICK FINAL REPORT

1 Introduction

1.1 This submission addresses:

- Unresolved aspects of the funding model referred to in the Ombudsman's preliminary submission and discussed during the Committee's deliberative meeting of 20 July, 1993.
- Other conclusions and recommendations by KPMG not directly related to the funding model.

1.2 On 23 July, KPMG provided the Committee with further information concerning the funding model including:

- a disc and hard copy of the "complaint resource model" showing the relevant variables and calculations, together with an explanation of the operation of the model (Appendix 1).
- details of calculations concerning table 4.3.4 and performance measure 4.6.2 in their report (Appendix 2).
- reference to assumptions underlying the variable - available task time (70%) - in the complaint resource model.
- recommendations for implementing the public awareness strategy.

2 The Complaint Resource Model

2.1 The Ombudsman is satisfied that the "complaint resource model" contains a workable formula, in that changes in the relevant variables (shaded areas in Appendix 1) can be made and factored into the funding model, producing the funding figure required to meet the changes in the variables.

2.2 The Ombudsman also accepts that the complaint resource model will

Submission to the Joint Committee on the Ombudsman

accommodate those additional outcomes to the complaint profile in respect of new functions under the Police Service (Complaints, Discipline and Appeals) Amendment Act 1993.

- 2.3 Using a copy of the disc, supplied with the authority of the Chairman, the Office has produced an example of the total resources required under the funding model based on the following complaint profile (outcomes):

Police Complaints	Complaint Profile %
Declined at Outset	40.0
Declined after Preliminary Inquiries	20.0
Conciliation	20.0
Police Investigation	19.5
Reinvestigation	0.5
Total	100.0
Complainant Not Satisfied	8%

General Complaints	Complaint Profile %
Outside Jurisdiction (Simple)	20.0
Outside Jurisdiction (Complex)	2.0
Declined at Outset	40.0
Declined after Preliminary Inquiries	23.5
Resolution	12.0
Investigation	2.5
Total	100.0
Complainant Not Satisfied	8.0

NB. % complainants not satisfied accidentally transposed in Ombudsman's preliminary submission (3.5.5).

2.3.1 Apart from the change in the complaint profile, other variables in the complaint resource model e.g. total number and relative mix of complaints (1992-93), time (hour) estimates and available task time (70%) have remained constant.

2.3.2 The results of the new complaint profile are set out in Attachment A which provides a graphic illustration of the resources required to process a given complaint profile and the impact of that profile on performance measures 4.6.2 and 4.6.4 in the report.

2.3.3 In particular, the Committee should note the effect of relatively small changes in the complaint profile, e.g. modest reduction in total complaints declined, modest increase in complaints conciliated or resolved, increase in police investigations from 0.125% to 0.5% and in general area investigations from 1.4% to 2.5% (the average for the past 5 years) on:

- total investigation officers required - 37
- complaint targets per investigation officer per annum - 177 (average police and general)

and the resultant total funding requirement of \$5.036M.

2.3.4 Notwithstanding that the complaint resources model has a workable formula, the Ombudsman has several concerns about the model, detailed below.

2.4 Efficiency Variation and Targets - Performance Measure 4.6.2

2.4.1 In his preliminary submission (3.6.5 - 3.6.9) the Ombudsman emphasised the difficulty in attaining the complaints finalised targets in performance measure 4.6.2. During evidence to the Committee on 20 July, there was discussion as to the correct measure of the increased efficiency variation recommended - KPMG suggesting that the Ombudsman's calculation - 35.86% - overstated the mark. The Deputy Ombudsman argued that the consultants should provide some method of reconciling the disparity

between the measure in table 4.3.4, 198 complaints finalised per investigation officer in 1992-93, and the target in performance measure 4.6.2, - 269. KPMG undertook to provide calculations of the figures relevant to this issue.

2.4.2 However, the further figures in Appendix 2 to KPMG's recent letter - Calculation of Complaints Finalised per Investigation Officer - are merely amplifications of the figures in table 4.3.4 and performance measure 4.6.2, NOT a reconciliation of the two.

2.4.3 The result is that the efficiency variation, a significant variable in the complaint resource model (blank shaded area in Appendix 1 KPMG letter 23 July), remains unknown and perhaps unknowable.

2.5 Available Task Time

2.5.1 There is a strong view in the Office that KPMG's setting of this variable at 70% overstates the time available to investigation officers to devote to complaints.

2.5.2 This view is reinforced on examination of the assumptions and activities for which time discounts have been made in KPMG's letter of 23 July (p.3). While the majority of those activities are mentioned in the final report (p.16 footnote 6, p.44) the figure of 30% for non investigation time now also includes the time required for investigation officers to conduct public awareness visits to prisons and juvenile detention centres.

2.6 Public Awareness Visits

2.6.1 Figures which the Deputy Ombudsman produced to the consultants on 21 July (Attachment B) show that, based on figures for 1992-93, public awareness visits to prisons and juvenile detention centres would require ●40 EFT investigation officers. When the available task time factor of 70% is applied the figure rises to ●52 EFT.

2.6.2 However, not all prisons and juvenile detention centres were visited

in 1992-93 and, with the exception of suburban institutions, most institutions visited received only one visit. The Ombudsman believes that an appropriate level of visits would require a doubling of these figures, raising the EFT figure to 1.04.

2.6.3 Whatever the appropriate level of such visits might be, it is clear that they cannot be accommodated within the 30% of time referred to in the final report.

2.7 Complainants Not Satisfied

2.7.1 During evidence to the Committee on 20 July, there was some discussion as to the investigation officer time required to process requests for reviews, a figure of approximately 5 EFT being mentioned. However, in their most recent letter the consultants have stated:

There was no impact on the required number of Senior Investigation officers and Investigation Officers required as a result of this revision. The complaint resource model, which includes estimates of the average time required to review complaints, indicates that proposed investigative staffing levels can absorb the resultant increase in workload.

2.7.2 KPMG have advised the Deputy Ombudsman that this apparently anomalous result is due to the fact that the report's recommendation of the number of investigation officers required - 24 - represented a "rounded up" figure, and was sufficient to accommodate requests for reviews. Accepting this to be the case, there is no margin left within the recommended level of 24 investigation officers to meet the demands of public awareness visits. It should also be noted that as reviews include the time of senior staff, they are more costly.

2.8 Payroll Tax

2.8.1 The report notes (5.3.4) that:

In determining future funding requirements, the following assumptions have been used:

- *Payroll tax is calculated at 7% of total salaries in excess of the \$500,000 threshold.*

Using that assumption KPMG have calculated the payroll tax liability, based on 1992-93 resources model (Appendix 15.1), of \$156,811. (See also Appendix 1, letter 23 July).

2.8.2 Under the Payroll Tax Act, NSW employers are entitled to a tax free threshold of \$500,000 of total assessable wages paid during any financial year. However, for the purpose of payroll tax calculations, the Office of State Revenue considers the NSW Government to be a sole employer of public sector staff. Accordingly, only one government agency obtains the benefit of the tax free threshold and all other agencies, including the Ombudsman must calculate payroll tax at 7% of their total salaries/wages bill, including such things as overtime, leave loading etc. The report failed to include these items in its calculations.

2.8.3 This error does not invalidate the model, but it does require adjustment. The correct figure for payroll tax in Appendix 15.1 should be \$195,031 an increase of \$38,220. Payroll tax of \$238,585 in Attachment A has been calculated on the correct basis.

2.9 Unpaid Overtime

2.9.1 Investigation staff strongly disagree with the report's conclusion (7.6) concerning unpaid overtime and the failure to include any provision in the funding model. While the report concedes that overtime is not distributed evenly across all members of staff, it fails to recognise the degree to which it is concentrated in particular areas for particular tasks. Secondly, the consultants' calculations are based on the total Office salary costs for 1992-93 which include salaries of statutory officers who are not eligible for overtime payments. Finally, although all officers up to Grade 12 are eligible to claim overtime, the rate of overtime claimed is

limited to the maximum of Grade 8 salary, plus \$1.

2.9.2 This Office estimates unpaid overtime to be equivalent to 1.5 EFT investigation officers and .5 EFT administration staff. This figure is extremely important when it is considered that 3 of the 5 performance measures recommended in the report are based on the productivity of investigation officers.

3 The Funding Model

3.1 As with the complaint resource model, the Ombudsman accepts that the Funding Model provides an appropriate method of calculating the resource requirements of the Office.

3.2 The Ombudsman has already addressed some of the specific aspects of the model in evidence to the Committee on 20 July, eg. "protected items" (5.3.7) and in this current submission e.g. payroll tax (2.8). Further matters which the Committee should consider are dealt with below.

3.3 Rent

3.3.1 In his initial submission to the Committee on 28 August 1992, the Ombudsman referred (4.17 and 4.18) to adjustments to the Office's maintenance expenses by Treasury to take account of a rent review due in March 1993, and 1995. The adjustments were:

<u>1992-93</u>	<u>1993-94</u>	<u>1994-95</u>
<u>\$000</u>	<u>\$000</u>	<u>\$000</u>
29	88	122

3.3.2 KPMG have apparently taken these adjustments into account, insofar as their estimates of average rent per square metre per annum has been based on 1992-93 actual rent. However, they have failed to take into account the fact that Treasury declined to adjust the Office's maintenance expenses in respect of the rent review that occurred in March 1991, which has led to a continuing "shortfall" in

funding of \$72,115 per annum.

3.3.3 This shortfall has, effectively, been built into the model which should be adjusted accordingly.

3.4 Capital Expenditure

3.4.1 The report's failure to address the issue of capital expenditure is disappointing, particularly in light of the consultants' comments about information technology systems in the Office (see 4.7.10 below)

3.5 Prospective Deficit

3.5.1 The Ombudsman's preliminary submission of 20 July (3.7.3) set out the deficits which the Office faces in 1994-95 and 1995-1996 based on the Treasury's most recent advice. These deficits are projected on the basis that the Office continues to function as in 1992-93 e.g. with the same number and mix of complaints and complaint profile, and already include Treasury's escalation factor of 2.5% applied to the Forward Estimates. The funding position will become critical in 1994-95 and it is imperative that the funding model recommended by the consultants be considered by Treasury at the time the Forward Estimates are provided in December 1993 - January 1994.

4 Other Conclusions and Recommendations

4.1 Restructuring

4.1.1 In general, the Ombudsman supports the new structure proposed in the report (2.4) of two specialist investigation teams each headed by a manager and directly responsible to the respective Assistant Ombudsman. The composition and recommended gradings of the teams appear reasonable. Care will have to be taken to avoid the potential for cleavage in the Office inherent in greater specialisation.

Inquiries Section

4.1.2 The Inquiries Section was totally restructured as a result of the Johnston Report which found significant dysfunctions in the previous structure. The Ombudsman has reservations about the consultant's proposals to:

- reduce the number of Inquiries staff by one
- maintain the rotation of reception duties with Inquiries staff.

4.1.3 The proposal to reduce staff can be achieved by removing complaint file work from Inquiries. This was the Ombudsman's intention following the most recent restructuring of the Section. Experience has shown, however, that it is important to provide Inquiries staff with a degree of variation of work to relieve the stress of these "frontline" positions.

4.1.4 The Ombudsman supports the removal of investigation officers from the Inquiries roster, although this is another reason for leaving Inquiries staff at current numbers.

4.1.5 The current system of rotating Inquiries staff through reception duties has not worked and is not liked by Inquiries staff. The Ombudsman believes that the receptionist position should be a full time dedicated position.

Special Projects Manager

4.1.6 The consultants recommended creation of this position following submissions from the Deputy Ombudsman concerning the CHIPS and Mediation projects currently managed by the Senior Executive Assistant.

4.1.7 While he welcomes the consultant's recognition of these projects, the Ombudsman believes that KPMG have given insufficient emphasis to their importance, particularly CHIPS, as reflected in

the recommendation that the position be reviewed when CHIPS has been implemented. This fails to understand the nature of the project - it must be an ongoing one in order to maintain over later years the expected dividend of complaint reduction in its earlier years. CHIPS is one of the few projects which has the potential to fund itself in terms of costs and benefits.

- 4.1.8 As noted in the Ombudsman's submission of 28 August 1992, (3.45 - 3.48) CHIPS is linked to the government's Guarantee of Service, has been funded from within existing budget and is already significantly under-resourced.

Information Systems Group

- 4.1.9 For the reasons set out below (4.7.12) the Ombudsman does not support the consultant's recommendation for the deletion of one Information Systems Officer Grade 1-2.

4.2 Complaint Assessment Procedures

The Ombudsman notes the report's conclusions (3.4 and 3.5) that the Office's complaint handling procedures in both the general and police areas are efficient.

4.3 Oral Complaints

The Ombudsman supports the report's finding (3.2.3) that the legislative requirement for complaints to be in writing be maintained.

4.4 Surveys

- 4.4.1 The Assistant Ombudsman is currently analysing the results of the complainant satisfaction survey with a view to reassessing current procedures. However, the Ombudsman notes that at least 30% of respondents have indicated a feeling that they were not kept fully informed of the progress of their complaint. This suggests a slippage in one of the most important areas and investigation staff

have been reminded that regular communication with complainants has always been regarded as a hallmark of the Office. The Ombudsman is also concerned that survey replies from respondents of non-English speaking backgrounds seem to suggest inadequate use of interpreter/translator services by staff.

4.4.2 The most important overall benefit of the survey for the Office is that it has established a series of benchmarks against which the Office's performance can be measured in ensuing years by future surveys. The Ombudsman believes that such surveys represent value for money; that just completed cost \$8,241 with a return of 608 responses out of 1,783 - a rate of 31%.

4.4.3 The Ombudsman also believes that a detailed survey of public authorities should be conducted by the Office. KPMG's survey of public authorities (3.3.2 and 9.0), given the extremely small sample surveyed, is an inadequate basis on which to draw conclusions.

4.5 Performance Measures

4.5.1 Subject to his submissions and evidence on the increased efficiency variation in performance measure 4.6.2, the Ombudsman believes that the consultants have fulfilled the term of reference set by the Committee:

to provide advice and recommendations on such other management issues as the Committee deems necessary during the course of the review, including but not limited to:

- *the use of the recommended performance measures or some alternative method in determining the level of funds and other resources to be made available annually for the operation of the Ombudsman's Office.*

4.5.2 However, it is not correct to say (4.2) that:

There are presently no formal performance measures used by the Ombudsman's Office to measure and monitor its efficiency.

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given that there are numerous performance measures built into the Corporate Plan. One of these measures, complaint turnaround, is recommended by KPMG as an appropriate performance measure (4.6.6). It is correct that those performance measures do not assist in determining the requisite level of resources and funds needed for the Ombudsman to perform his functions.

4.6 Comparison with other bodies

4.6.1 It is clear from an analysis of the report (4.4) and Appendix 8 that it is impossible to make any meaningful comparison between the NSW Ombudsman and other State Ombudsmen and the Commonwealth Ombudsman. Whether any comparison with the ICAC can usefully be made is a moot point.

4.6.2 However, given that the report specifically refers to the Cost Per Employee and per Complaint - Table 4.3.7 - the Ombudsman is disappointed that the consultants did not attempt to make some measure of comparative performance with other bodies such as the EFT measure set out in Table 3.12 of the Ombudsman's submission to the Committee of 8 December and reproduced below.

Agency	Budget \$M	Staff No	EFT \$
Internal Affairs Branch	4.323	91	47,000
Health Complaints Unit	2.880	43	66,975
Anti-Discrimination Board (including Equal opportunity Tribunal)	2.671	39	68,487
Office of the Director of Equal Opportunity in Public Employment	1.097	16	68,562
Guardianship Board	2,895	42	68,928
Cabinet Office	6.839	88	77,716
Treasury - Budget Division	5.493	69	79,608
Independent Commission Against Corruption	14.903	145	102,779
Office of the Ombudsman	4.246	72	58,972

4.7 Other Management Issues

Internal Communication

4.7.1 The Ombudsman recognises the need for better communication between the Management Committee and staff. In the short term, the Ombudsman has decided to re-instate the publication of minutes of Management Committee meetings, as well as emphasising the need for members of the Committee to report back to their respective functional areas. Restructuring along the lines of the consultant's recommendations should facilitate internal communication.

Public Awareness Strategy

4.7.2 Over the past 3 years, in reports to Parliament and in evidence and submissions to the Committee, the Ombudsman has emphasised the importance of a properly designed, targeted and funded public awareness strategy. The consultants conclude (6.4):

Based on our assessment of the Ombudsman's public awareness strategy, we believe that the strategies adopted to promote public awareness of the Ombudsman make appropriate use of a restricted budget.

4.7.3 The issue, however, is not the efficient and effective use of a restricted budget, but that the budget is inadequate to raise the level of awareness and understanding of the role of the Ombudsman among important minority groups. The Ombudsman believes that the Committee's current inquiry on awareness and access will provide an opportunity for the development of a more comprehensive strategy to address the needs of minority groups.

Information Technology

4.7.4 The report's conclusions concerning the Manager of the Information Systems Group are entirely misconceived and incorrect.

Implicit in the report's analysis of this area is a conclusion that the Manager has been responsible for the deficiencies which the consultants have identified in IT systems in the Office. The responsibility is that of management.

4.7.5 The Ombudsman accepts the consultants principal conclusion that the computer systems currently used by the Office fail to meet the objectives of assisting staff to perform their duties and of providing management reports to enable management to improve the efficiency of the Office. The Ombudsman has said as much in evidence to the Committee.

4.7.6 The Ombudsman also agrees with many of the report's specific conclusions concerning IT systems e.g.

- fragmentation of systems
- insufficient data and reporting functions to assess complaint and work flows

However, these and other conclusions should be amplified and placed in context.

4.7.7 The degree of fragmentation should not be overstated. For instance, administrative section IT systems CHRIS - Pay and ACCPAC need not and, for security reasons should not, be integrated into IT complaint systems. Similarly, the IT system recently introduced into the Inquiries Section performs a discrete function but does integrate with the Office Vax system.

4.7.8 The report's conclusion that the IT Strategy developed in 1989 is confusing and inadequate is not so much a comment on the Office's abilities in this area, as a criticism of the expertise of the consultants who prepared the strategy for the Office.

4.7.9 While the Ombudsman has retained consultants to develop a new IT Strategic Plan, it has been necessary to spend scarce funds to upgrade the Police Complaints database to input data and provide

reports on the Ombudsman's new functions under the Police Service (Complaints, Discipline and Appeals) Amendment Act 1993 which commenced on 1 July 1993.

4.7.10 However, the principal explanation for the lack of integration of and deficiencies in IT systems in the Office is more basic - lack of funds. The design, introduction and implementation of IT systems (and the need to make changes in systems to meet new functions) requires not only a reasonable lead time but guaranteed capital expenditure funding. While efficiencies associated with the old system of appropriations from the Consolidated Fund for recurrent expenditure have been ameliorated by the introduction of a rolling program of 3 year forward estimates, funding for capital expenditure is a lottery. It is almost impossible to implement a coherent IT systems program over any length of time in the absence of assured capital funding. (This difficulty was one factor which influenced the Ombudsman to introduce the new IT system into the Inquiry Section. The system - software and hardware - have been provided free. The Office will only be responsible for payment of the usual maintenance costs, no more than \$5,000 in 1994-95.)

4.7.11 One of the most important aspects to emerge from the management review has been the performance measures recommended in the report. These measures will have to be integrated into current or any future IT systems in the Office. To this end the Ombudsman will be referring the report to consultants currently engaged to prepare a new IT Strategic Plan for the Office.

4.7.12 It is also clear that implementation of the performance measures, as well as the development of more efficient IT reporting systems, will require the input of greater amounts of data than is currently the case. For this reason the Ombudsman does not support the proposal to delete a position of Information Systems Officer Grade 1-2 from the Information Systems Group. That section has already suffered cutbacks and redundancies following implementation of recommendations in the Johnston report.

4.8 Other Staffing Issues

Secondments

- 4.8.1 As already noted in evidence to the Committee, the Ombudsman believes that public authorities, particularly in the current economic and funding climate, will be reluctant to overturn longstanding practice of not funding secondments. However, the Ombudsman will explore ways of attracting paid secondments on the basis of perceived future cost benefits to the authority concerned, especially in relation to the development of internal complaint handling mechanisms.
- 4.8.2 The Ombudsman presumes that the consultants recommendation (7.2, p49) that seconded staff from public authorities should not be directly involved in an investigation of the authority from which they originate, is limited to the proposal in 4.8.1 above, not to general secondments. In the case of the latter type of secondments, the Ombudsman has no such restriction, other than directions concerning actual or potential conflicts of interest in any given case.

Staff Contracts

- 4.8.3 The Ombudsman recognises that there is some concern about the "temporary" nature of employment in the Office. The consultant's report reflects the lack of security felt by some investigation staff. It has been the practice since the former Ombudsman first instituted the policy that all investigation officer positions (apart from the Principal Investigation Officer) and executive assistant positions be temporary appointments in terms of the Public Sector Management Act. Mr Masterman instituted that policy to remedy his concerns that permanent employment of investigation staff led to stagnation in a small office.
- 4.8.4 Such appointments have continued as the Ombudsman believes contract employment is conducive to better performance and also provides more flexibility for a small organisation in terms of

meeting contingencies, be they budget restrictions or changes in the nature of complaints that ideally require changes in the profile of staff in terms of specialist skills. There is nothing in the consultants report to convince the Ombudsman that making all positions permanent would lead to greater efficiencies and effectiveness. That is not to say that the current arrangement is without flaws.

4.8.5 The preferable position would be to offer renewable contract employment for investigation staff for appropriate periods of 3-5 years. This was certainly the intention when the incorporation of the Office of the Ombudsman was proposed in the Ombudsman (Amendment) Bill 1988. That bill provided that the corporation may employ staff to enable the Ombudsman to exercise his functions and to fix the salaries, wages, allowances and conditions of employment in so far as they were not fixed by or under another Act or law with the concurrence of the Public Employment Industrial Authority. The proposal took the staffing of the Office out of the Public Sector Management Act which is the case with staff of the ICAC and is similar to the staffing arrangements of many other Ombudsman offices. Unfortunately the Government did not proceed with the Bill as it was not prepared to accommodate proposed amendments foreshadowed by the Leader of the Opposition and the Leader of the Australian Democrats.

4.8.6 Since that time most positions have been advertised as temporary appointments "up to 3 years". However, the Ombudsman is bound by section 38 (3) of the Public Sector Management Act which dictates that contracts can only be given for periods of four months at a time. As the consultants note, contracts are automatically renewed unless there is some significant problem; however, the reality is that staff only have security for four months at a maximum at any given time which certainly affects morale.

The Ombudsman is currently exploring whether the Ombudsman Act could be amended to exempt the Office from section 38 (3) of the Public Sector Management Act to allow employment of investigation staff on longer term contracts. If that proves not to be

possible, the possibility of permanent appointments would be considered. The consultant's contingent recommendation that permanency should be dependent upon a successful probation period is only possible if an appointment is made from outside the public service.

5 Conclusion

5.1 The Ombudsman believes that the KPMG report has met the Committee's terms of reference and should be judged a success in:

- proposing a workable funding model driven by relevant variables and generally appropriate performance measures.
- recommending a more efficient complaint handling structure for the Office.

ATTACHMENT A

NSW OMBUDSMAN - COMPLAINT RESOURCE AND FUNDING MODEL

COMPLAINT PROFILE -

1992/93

PART 1 - DETERMINATION OF COMPLAINT NUMBERS BY INVESTIGATION OFFICER

Police Complaints:

<i>Complaint Outcomes:</i>	Complaint Profile (%)	Time Estimate (hours)
Declined at Outset	40.0%	1.70
Declined after Preliminary Inquiry	20.0%	4.10
Conciliation	20.0%	1.45
Police Investigation	19.5%	8.50
Re-Investigation	0.5%	840.00
Direct Investigation		
Other		
Other		
Other		
	100.0%	
Complainant Not Satisfied	5.0%	1.00
Available Hours per Officer per annum	1,820	
Available Task Time (%)	70%	
Available Investigation Time (hours)	1,274	
Complaint Target per Officer	174	
Efficiency Variation		
Revised Complaint Target per IO (incl. complaints reviewed)	174	
Complaints per Actual Officer Employed	167	

General Complaints:

<i>Complaint Outcomes:</i>	Complaint Profile (%)	Time Estimate (hours)
Outside Jurisdiction (Simple)	20.0%	0.00
Outside Jurisdiction (Complex)	2.0%	4.00
Declined at Outset	40.0%	1.25
Declined after Preliminary Inquiry	23.5%	4.55
Resolution	12.0%	6.00
Investigation	2.5%	167.00
Other		
Other		
Other		
	100.0%	
Complainant Not Satisfied	8.0%	3.50
Total Available Hours per person pa	1,820	
Available Task Time (%)	70%	
Available Investigation Time (hours)	1,274	
Complaints per Investigation Officer	202	
Efficiency Variation		
Revised Complaint Target per IO (incl. complaints reviewed)	202	
Complaints per Actual Officer Employed	187	

Time estimates shown reflect Senior Investigation Officer & Investigation Officer input only

PART 2 - DETERMINATION OF FUNDING REQUIREMENTS

Investigation Staff Requirements:										Average Salary	Salary Cost
	Statutory	Police	General	FOI	TIU	Inquiries	Aboriginal	Other	Total		
Ombudsman	1								1	128,500	128,500
Deputy Ombudsman	1								1	116,750	116,750
Assistant Ombudsman	2								2	95,000	190,000
Complaints Manager		1	1						2	58,000	116,000
SIO/SEA		6	3		1			1	11	46,400	510,400
Investigation Officer		18	10	3	1		1		33	40,800	1,346,400
Investigation Assistant		7	4						11	25,000	275,000
Senior Inquiry Clerk						1			1	34,600	34,600
Inquiry Clerk/AIO					1	2			3	29,500	88,500
	4	32	18	3	3	3	1	1	65	43,172	2,806,150

Complaint Numbers	4,008	2,435		
Complaints Reviewed	200	195		
Total Complaint Numbers	4,208	2,630	90	12,000
Productivity Target	174	202	30	4,000

Administration Staff Requirements:							Total	Average Salary	Salary Cost	
	Ex. Officer	Personnel	Accounting	Media	Info Sys	Secretarial	Librarian			
Executive Officer	1							1	55,700	55,700
Human Resource Supervisor		1						1	42,200	42,200
Financial Accountant			1					1	42,200	42,200
Media Director				1				1	39,300	39,300
Information Systems Manager					1			1	47,900	47,900
Data Control Officer					1			1	37,000	37,000
Snr Info Systems Officer					1			1	27,600	27,600
Information Systems Officer					1			1	21,600	21,600
Administration Officer		1						1	29,300	29,300
Administration Assistant		1	2					3	21,200	63,600
Media Assistant				1				1	24,100	24,100
Secretary						4		4	24,100	96,400
Librarian							1	1	29,300	29,300
	1	3	3	2	4	4	1	18	30,900	556,200

Total Staff Requirement and Base Salary Cost								83		3,362,350
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Total Staff Requirement and Base Salary Cost	83	3,362,350
Salary Related Expenses:		
Payroll Tax		238,585
Superannuation		336,235
Annual Leave		20,000
Long Service Leave		85,000
Annual Leave Loading		27,000
Allowances		14,000
Overtime		0
Workers Comp Insurance		18,000
Meals		1,000
Fringe Benefits Tax		4,000
Total Salary Related		743,820
Rental Expense (Office):		608,058
Square Metres per Employee	18	
Total Space Requirement	1,494	
Annual Rental Per Square Metre (\$)	407	
Rental Expense (Car Parking):		25,000
Other Working & Maintenance Expenses:		568,707
% of Total Expenditure	12%	
Depreciation Charge		161,000
Protected Items - Special Investigations		150,000
TOTAL EXPENDITURE		5,618,935
Less: Unfunded Items		
Superannuation		336,235
Long Service Leave		85,000
Depreciation		161,000
Total Unfunded		582,235
TOTAL RECURRENT FUNDING REQUIRED		5,036,700

ATTACHMENT B

PUBLIC AWARENESS/PRISON VISITS 1992-1993

VISIT TYPE	DAYS	STAFF	TOTAL PERSON DAYS
Prison Only			
Training 10/3/92	1	3	3
Emu Plains 23/1/93	1	2	2
Silverwater 5/2/93	1	2	2
Parramatta 29/3/93	1	2	2
Parklea 10/2/93	1	3	3
Lithgow 29/4/93	1	2	2
Remand 17/2/93	1	3	3
Reception 29/10/92	1	2	2
10/2/93	½	2	1
Long Bay Hospital 2/9/92	1	2	2
Norma Parker 11/11/92	1	2	2
Mulawa 27/8/92	1	2	2
5/11/92	1	2	2
9/11/92	1	2	2
John Moroney 16/9/92	1	2	2
9/5/93	1	2	2
June 20/4/93	1	2	2
Goulburn 21-22/9/92	1½	2	3
15-16/4/93	1½	2	3
Berrima 21/9/92	½	2	1
15/4/93	½	2	1
Combined Prison/Public Awareness			
Maitland/Cessnock/ St Heliers/Tamworth 16-19/3/93	4	2	8
Broken Hill/Dubbo/ Orange 23-26/3/93	5	2	10
Wagga/Manus/Cooma 19-22/4/93	4	2	8
Grafton/Glen Innes/ Inverell	3	2	6

VISIT TYPE	DAYS	STAFF	TOTAL PERSON DAYS
Public Awareness Only			
Taree 15-16/2/93	2	2	4
Wollongong 23/4/93	1½	2	3
18/6/93	1	2	2
Newcastle 1/4/93	2	2	4
6/5/93	2	2	4
3/6/93	2	2	4
TOTAL			95 person days Equivalent to .4 EFT
70% Available Task Time			.52 EFT