

Did They Do What They Said They Would? Volume 2

REVIEWING IMPLEMENTATION OF OUR RECOMMENDATIONS
1 JULY 2019 TO 30 JUNE 2021

October 2022

Report by the Commonwealth and Australian Capital Territory (ACT) Ombudsman,
Iain Anderson, under the *Ombudsman Act 1976* (Cth) and the *Ombudsman Act 1989* (ACT)

REPORT NO. **04 | 2022**

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FOREWORD

I am pleased to introduce the second report on agencies' implementation of recommendations made by the Commonwealth and ACT Ombudsman (the Office) in published reports during the period 1 July 2019 to 30 June 2021.

The Office seeks to achieve enduring systemic improvement in public administration by influencing the agencies and organisations we oversee. We investigate and report on a range of issues and make recommendations under the *Ombudsman Act 1976* (Cth) and *Ombudsman Act 1989* (ACT). We follow up with agencies on the actions they take to implement our recommendations.

In September 2020, the Office published a report, [*Did They Do What They Said They Would?*](#), which reviewed the work of multiple agencies to implement recommendations made in reports we published between July 2017 and June 2019. We assessed the steps taken by agencies and formed a view about whether our recommendations were fully implemented, partially implemented, or not implemented.

This year, we report on agencies' implementation of recommendations made in reports published between 1 July 2019 and 30 June 2021. Our point-in-time assessments measure the progress made by 8 agencies to implement 73 recommendations made in 10 published reports during that period – 7 reports by the Commonwealth Ombudsman, 2 reports by the ACT Ombudsman, and one report published jointly by the Commonwealth and ACT Ombudsman about the Australian Federal Police (AFP)/ACT Policing.

We can see from our assessments that agencies are making improvements and doing things differently because of our recommendations. Policies and procedures were updated, communication with customers has improved, staff training was delivered, system changes are underway, and improvements were made to quality assurance processes, record keeping and service delivery.

Overall, we found that of the 73 recommendations accepted by agencies, 32 were implemented, 35 were partially implemented and 6 were not implemented. This means 92 per cent of accepted recommendations were implemented or partially implemented.

This is a pleasing outcome, noting that in some instances agencies had limited time to implement the recommendations and COVID-19 impacted agencies' capacity to implement some recommendations.

Following the publication of this report, *Did They Do What They Said They Would? Volume 2*, we will continue to liaise with agencies to ensure their commitments to improve their administrative practices are realised.

I thank all the agencies involved in the preparation of this report for their cooperation with the Office.



Iain Anderson
Commonwealth and ACT Ombudsman

EXECUTIVE SUMMARY

Across our investigation reports published between 1 July 2019 and 30 June 2021, we made 77 recommendations, 73 of which were accepted by agencies. Of the 73 recommendations, 32 have been implemented, 35 partially implemented, and 6 have not been implemented. This means we are satisfied agencies implemented or partially implemented 92 per cent of accepted recommendations subject to this report.

Figure 1 – Summary of recommendations

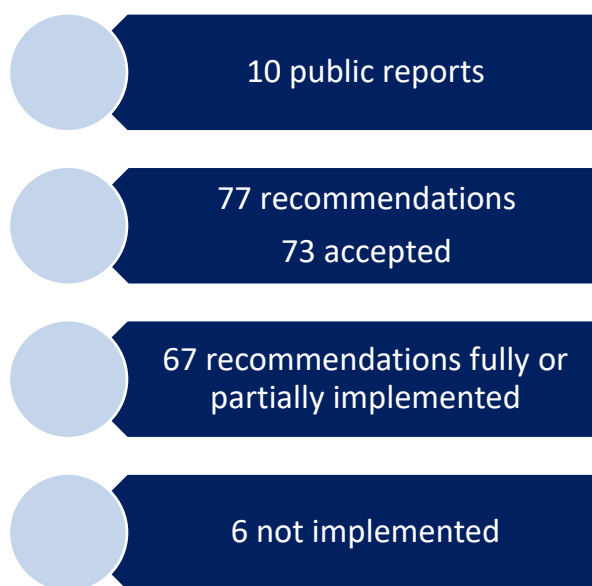
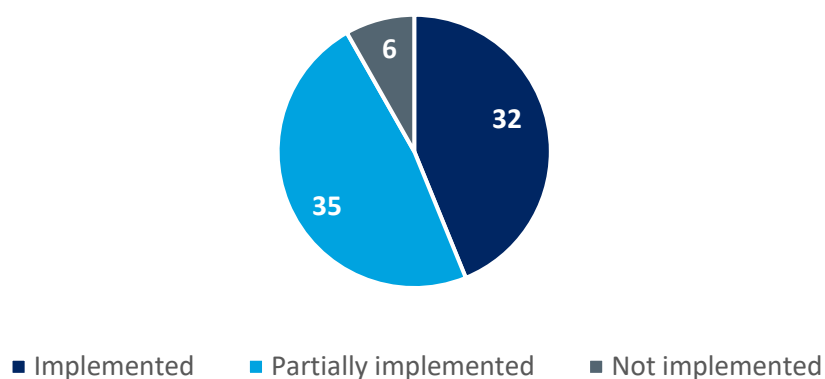


Figure 2 – Implementation of accepted recommendations

Implementation of accepted recommendations

73 recommendations



Our role in monitoring recommendations

We consider systemic improvement in public administration is an ongoing process. Equally, our role in monitoring the implementation of recommendations by agencies forms part of our daily work and extends beyond the publication of this report.

We liaise with agencies and provide feedback as agencies plan and take action to implement our recommendations. Where agencies are not able to implement all our recommendations, or the problems seem to be continuing, we consider the reasons for this. We may outline further action we want to see the agency take.

Building our capacity to monitor recommendations

Just as we recommend agencies make improvements, we also seek to make continuous improvements to the way we work with agencies to monitor the implementation of recommendations. Following the publication of our first recommendations report, we implemented our own improvements. In September 2020, we published internal guidelines for our staff on crafting recommendations, to ensure we make clear, specific and measurable recommendations agencies can readily understand and implement. This was accompanied by staff training sessions, which we continue to deliver.

At the same time, the Office published an agency fact sheet, '[Ombudsman recommendations](#)', to make it clear to agencies that the Ombudsman will follow up on recommendations, including requiring agencies to provide evidence of implementation. The [Public Service News](#) reported on this fact sheet, and the Office's work in monitoring the implementation of recommendations across the APS.

In July 2021, the Office introduced a new system to continuously monitor and track the implementation of recommendations. The system provides ready access to recommendations-monitoring data, to inform our agency liaison work and support internal and external reporting.

In August 2021, the Office published an [agency fact sheet](#) outlining the process involved in compiling this report. Given this second report involves different agencies to the first report, the Ombudsman sought to provide all agencies with information about the process, in addition to writing directly to the heads of those agencies involved.

Comparing our first and second monitoring recommendations reports

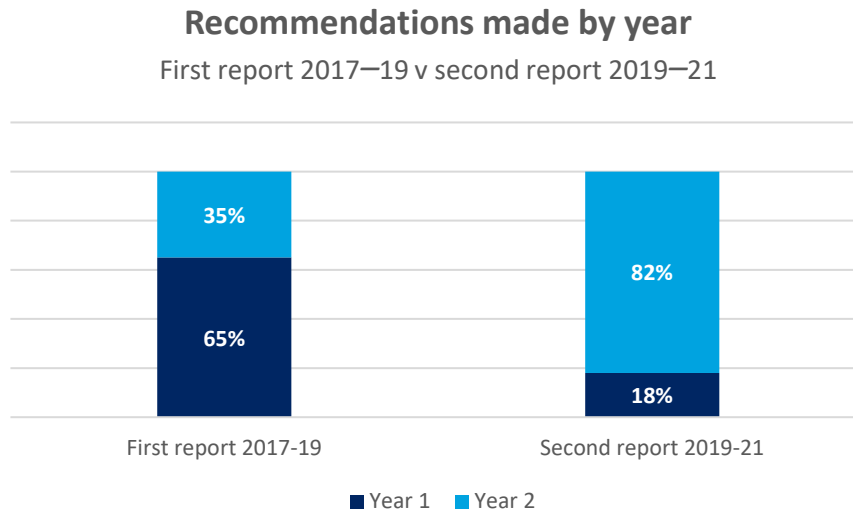
In comparing our first and second recommendations reports, it is apparent in this recent biennial reporting period, the Office monitored more recommendations – from more reports relating to more agencies – than in the first report.

The first recommendations report covered 4 agencies and one private health insurer, 7 public reports and 61 recommendations. The Office commenced formal follow up on agencies' implementation in July 2019, more than one year after most reports were published.¹ For this second report, the Office commenced formal follow-up in July 2021. At this point, agencies had 12 months to implement recommendations from 3 reports, less than 12 months for 5 reports and less than 4 months for 2 reports.²

¹ The first recommendations report covered public reports with 65 per cent of recommendations made in the first year of the 2-year reporting period.

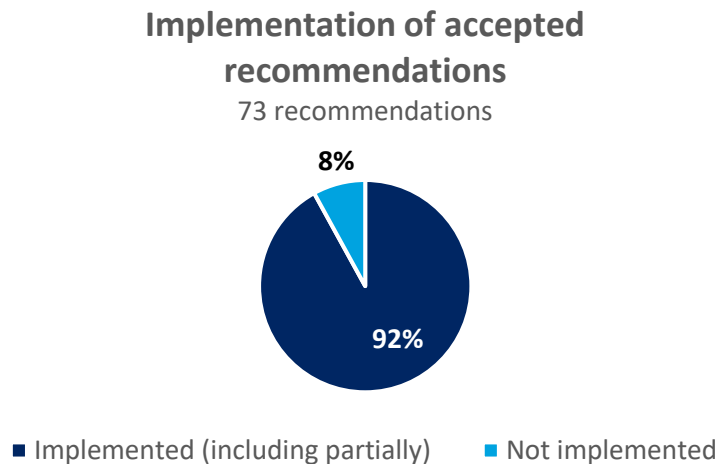
² For this second report, only 18 per cent of recommendations were made in the first year, with most made less than a year before our formal follow-up process began.

Figure 3 – Recommendations made by year



In the first recommendations report, we assessed agencies had implemented (fully or partially) 98 per cent of accepted recommendations. For the current reporting period, we are satisfied that agencies have implemented or partially implemented 92 per cent of accepted recommendations.

Figure 4 – Implementation of accepted recommendations



Not all recommendations are the same

We recognise all recommendations are not the same. Recommendations vary in complexity, with some requiring considerable work over a significant period to implement, while others can be implemented relatively quickly. For example, we expect agencies to provide an apology or better explanation more quickly than we expect agencies to create or update a suite of policies and procedures or implement a systems upgrade. For these reasons, we recognise the agencies featured in this report are at different stages in their implementation of our recommendations.

COVID-19 challenges

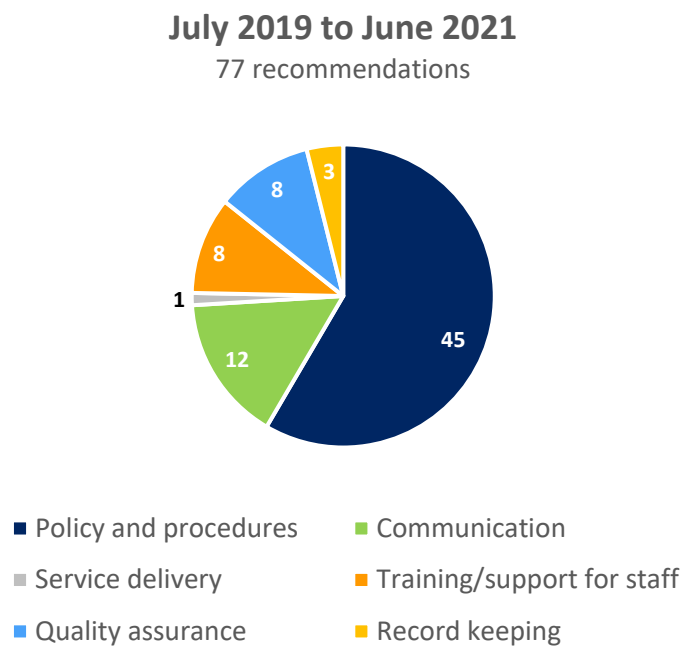
We note the challenges presented by COVID-19 during this reporting period which affected the capacity of some agencies to implement recommendations, and in other cases, the time taken to implement recommendations.

Areas of public administration targeted by our recommendations

Our implementation reports show our recommendations are targeted at improving several key areas of public administration:

- Policy and procedures
- Communication (with the public)
- Training and support for staff
- Quality assurance
- Service delivery
- Record keeping.

Figure 5 – Categories of public administration targeted by our recommendations



The greatest proportion of recommendations we make relate to improving policies and procedures. This reflects the importance of clear, comprehensive policies and procedures to guide APS staff in making good decisions and to implement government policy consistently, as intended. Clear policies and procedures are also essential to support the government’s vision of one APS, where APS staff can move across agencies and quickly acquire the necessary knowledge to perform the highest priority work – such as processing bushfire, COVID-19 or flood assistance payments – as quickly as possible.

To understand and apply agency policies and procedures correctly, staff need effective training and support tools. Training must be delivered regularly, and support tools must be updated to reflect legislative and policy changes. This is our third highest area of

recommendation, alongside quality assurance, followed by record keeping and service delivery.

Quality assurance and review processes ensure agencies can identify and correct any errors and use the lessons learned to continuously improve their policies, procedures, training and systems. At times, as our recommendations highlight, agencies may need to consider ways to remedy any detriment caused, by providing an explanation, apology or considering a claim for Compensation for Detriment caused by Defective Administration (CDDA).

We recommended agencies improve their systems, to eliminate manual workarounds, which are prone to errors. Our recommendations also highlight the need for agency systems to provide decision-makers with complete, accurate information to support sound, lawful decisions. While we recognise system upgrades can take more time to implement, it is important that agencies' systems support quality, timely decision-making.

While record keeping may seem basic, it is essential to ensure decision-makers can access all the information needed to make good decisions. As our recommendations highlight, poor record keeping can have serious consequences, including decisions later found to be unlawful, causing serious detriment.

In addition to recommending improvements to support administrative decision-making, our second most prevalent area of recommendation is the way agencies communicate with the community. Providing consumers of government services with clear, adequate information is important to ensure people understand their rights and obligations and help them make informed decisions about applying for a payment or service.

Consumers have a right to clear communication to help them understand the lawful basis of decisions made about them, particularly adverse decisions. This includes agencies advising them of any review rights and complaint avenues within the agency and to relevant oversight bodies, such as the Ombudsman.

Impact of our follow-up

The provision of our preliminary views to agencies in the early stages of our follow-up was an important step in producing this report. Through this step, we outlined the outcomes the Office would expect to see, to assess outstanding recommendations as implemented. This process appeared to assist some agencies to progress implementation of their recommendations, with some agencies taking further action in response to our preliminary views. This included one agency providing timeframes to implement some recommendations it had previously noted or only partially accepted. This is a good indication of the impact our recommendations monitoring has to influencing improvements in public administration.

PART 1: INTRODUCTION

SCOPE OF REPORT

- 1.1. This report covers agencies' implementation of recommendations in investigation reports published by the Office of the Commonwealth Ombudsman and ACT Ombudsman (the Office) between July 2019 and June 2021, with the exception described in paragraphs 1.4 to 1.5 below.
- 1.2. The investigation reports covered in this report are listed below.

Table 1—Reports within scope

Agency	Report	Published
ACT Corrective Services	<i>Parole processes at the Alexander Maconochie Centre</i>	November 2020
ACT Revenue Office	<i>Investigation into the transparency of commercial land valuation decisions in the ACT</i>	August 2020
Australian Federal Police	<i>Statement by the Commonwealth Ombudsman Michael Manthorpe on the Australian Federal Police's handling of allegations made about the Hon Angus Taylor MP</i>	November 2020
Australian Federal Police/ACT Policing	<i>ACT Policing's administrative framework for engagement with the ACT Aboriginal and Torres Strait Islander community — Volume one & Volume two</i>	March 2021
Commonwealth Superannuation Corporation	<i>Investigation into the administration of the Defence Force Retirement and Death Benefits scheme</i>	December 2019
Department of Defence	<i>Defence's policies for receiving and responding to reports of abuse</i>	August 2019
Department of Defence	<i>Inquiry into behaviour training for Defence recruits</i>	July 2020
National Disability Insurance Agency	<i>Administration of NDIS funded assistive technology</i>	August 2020
National Disability Insurance Agency	<i>Investigation into the actions of the NDIA in relation to Mr C</i>	February 2020
Services Australia	<i>Services Australia's Income Compliance Program</i>	April 2021

- 1.3. This report also provides an overview of the types of recommendations made by the Office in relation to our oversight of law enforcement and integrity agencies' use of certain covert, intrusive and coercive powers and immigration detention oversight, at Parts 12 and 13.
- 1.4. This report does not include the Office's investigation report into [Australian Federal Police's \(AFP\) use and administration of telecommunications data powers 2010 to 2020](#). This is because the Office has established a separate method for following up and verifying action taken on recommendations through our regular annual inspection. The Office conducted a review of the AFP's actions to date in response to our recommendations and will continue to monitor further actions taken by the AFP over the coming year. The Office will publicly report on the AFP's implementation of these recommendations in our next biennial recommendation implementation report.
- 1.5. The Office's investigation report into [Centrelink's Automated Debt Raising and Recovery System](#), published in April 2019, is not included in this report and was not included in the previous [Did They Do What They Said They Would?](#) report. The 2019 report contains our follow up on Services Australia's implementation of our recommendations made in an earlier report of the same name, [Centrelink's Automated Debt Raising and Recovery System](#), published in April 2017. As the program considered by the 2017 and 2019 reports was paused in November 2019, an additional review of Services Australia's implementation of the 2017 and 2019 report recommendations is unwarranted.
- 1.6. In the 10 investigation reports covered in this report, the Office made 77 recommendations, of which 73 recommendations (95 per cent) were accepted and 4 recommendations (5 per cent) were not accepted.
- 1.7. Of the 73 recommendations accepted by agencies, we consider 67 recommendations (92 per cent) are implemented or partially implemented, and 6 recommendations (8 per cent) not implemented. In the case of ACT Policing, we note implementation of the 9 recommendations is in progress and we will continue to monitor ACT Policing's progress towards full implementation in accordance with the timeframes noted in Part 5 of this report.
- 1.8. The Office continues to oversee the administrative actions and decisions of the agencies covered by this report through our ongoing monitoring of issues, including via complaints received by the Office and liaison with the agencies.
- 1.9. The Office publishes this report under s 35A of the *Ombudsman Act 1976* (Cth) and s 34 of the *Ombudsman Act 1989* (ACT) to increase the transparency of our work and as part of our accountability to the public and the Australian Parliament.

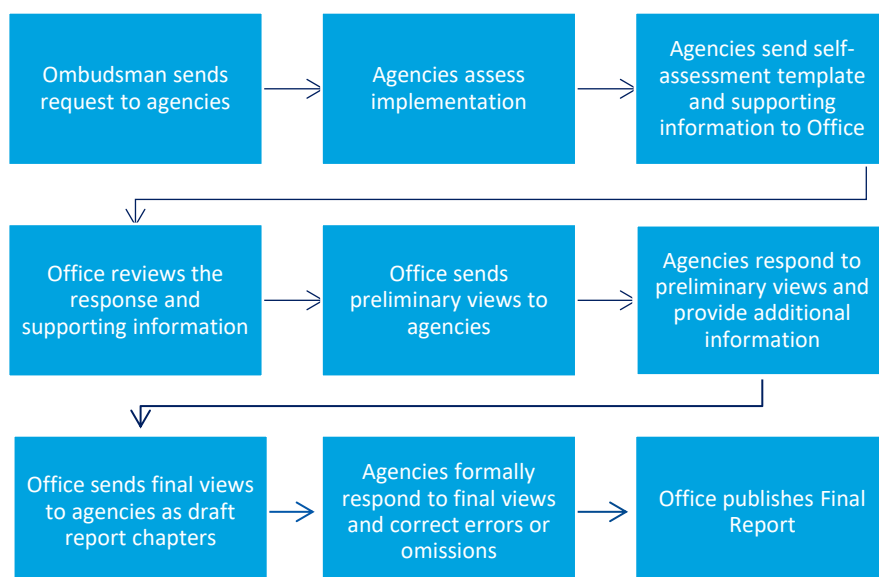
METHODOLOGY

- 1.10. In July 2021, the then Ombudsman, Michael Manthorpe PSM, wrote to the agencies covered by this report to request information about the implementation of recommendations from the reports listed at 1.2. The then Ombudsman made this request for information using his powers under ss 8 and 15(4) of the *Ombudsman Act 1976* (Cth) and s 18(4) of the *Ombudsman Act 1989* (ACT). The

letter included a self-assessment template and a request for supporting documentation.

- 1.11. The Office analysed the self-assessment and supporting documentation provided by agencies. After considering the information, the Office sent its preliminary views on the status of implementation to the agencies and provided an opportunity to comment.
- 1.12. The Office adopted this self-assessment approach as it recognises agencies have their own internal processes for monitoring implementation of recommendations for improvement and, in many cases, had already undertaken considerable work to implement our recommendations.
- 1.13. While the Office engages with agencies to obtain a high level of confidence about the implementation of our recommendations, the Office cannot provide unqualified assurance of each agency's adherence to improved processes and policies in day-to-day administration and operational activities.
- 1.14. Where possible, the Office seeks information that demonstrates practical implementation of a recommendation. For example, where an agency changes or implements a policy, the Office often seeks assurance the policy is captured in procedural instructions and communicated to relevant officers, and training is delivered where appropriate.
- 1.15. We provided agencies with the opportunity to correct errors of fact in our final report, which was sent to agencies in draft. We also invited agencies to provide a formal response to the report. The formal responses are included in the appendix to this report.

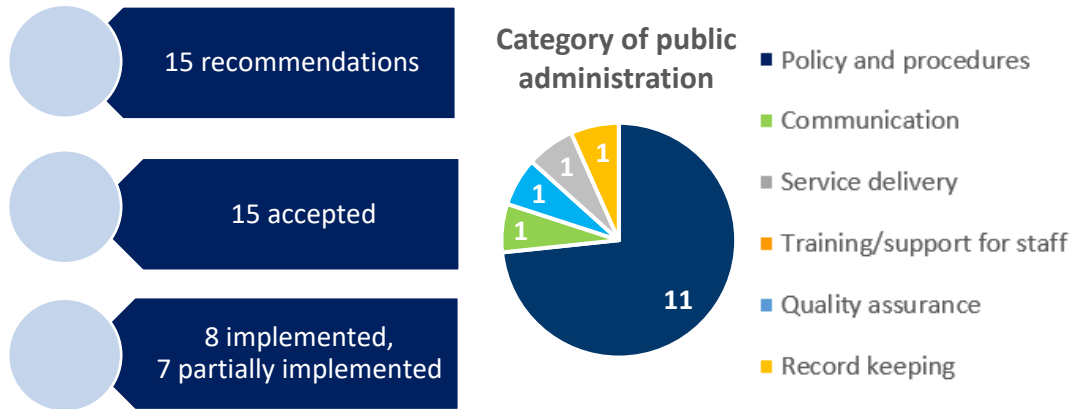
Figure 6 – Methodology



PART 2: ACT CORRECTIVE SERVICES

PAROLE PROCESSES AT THE ALEXANDER MACONOCHIE CENTRE

Figure 7 – Recommendations summary and categories of public administration



- 1.16. The Office published its investigation report [Parole processes at the Alexander Maconochie Centre – Investigation into the administration of parole by ACT Corrective Services](#) in November 2020.
- 1.17. The Office commenced the investigation in response to concerns about parole processes, including the information and support available to detainees, the natural justice afforded to detainees during the application process, access to legal representation, and the accuracy and completeness of information provided to the Sentence Administration Board (SAB). We understood detainees may have been reluctant to make formal complaints about these issues because of concerns that doing so might impact their parole outcome.

Summary of recommendations

- 1.18. The report made 15 recommendations, all of which were accepted by ACT Corrective Services (ACTCS). The recommendations focused on ensuring parole processes in the ACT are transparent, reflect best practice administration, and reduce the risks of administrative failures occurring.
- 1.19. The first 6 recommendations focused on developing a transparent policy framework, as well as implementing sound administration around business planning and record management. The remaining 9 recommendations addressed opportunities for improving sentence management and parole processes.
- 1.20. The Office considers 8 recommendations implemented and 7 recommendations partially implemented.

Engagement with ACT Corrective Services

- 1.21. Our Office is in regular contact with ACTCS about a range of issues related to the Alexander Maconochie Centre (AMC). The ACT Ombudsman participates in the

AMC oversight network, supported by relationship protocols with other organisations which set out how these organisations work together to ensure effective oversight.

- 1.22. ACTCS provided information to demonstrate its implementation of the recommendations (in September and October 2021 and January 2022.) ACTCS's response and the additional material were considered in reaching our findings.

Recommendation 1

ACTCS finalise a policy framework that comprehensively covers the 'sentence management continuum', including the specifics of the parole process and how to manage detainees through this process, comprising:

- policy documents to contain high-level principles and explain how the legislative framework is implemented.
- complementary procedures to provide practical guidance to staff, which should include staff roles, responsibilities and referral points, as well as service standards and quality assurance measures.

- 1.23. The Office considers ACTCS has partially implemented this recommendation. ACTCS advised the Integrated Offender Management (IOM) framework was endorsed, with a series of complementary procedures to be developed in 2022. The IOM framework aims to provide an integrated model for the delivery of programs and services for offenders. An implementation plan was approved to deliver on the framework, commencing with the women's cohort from February 2022. ACTCS expects all deliverables outlined in the implementation plan will be achieved by June 2022.
- 1.24. In the meantime, the 'Corrections Management (Sentence Management Plans) Operating Procedure 2021' remains in effect as an interim measure. ACTCS advised the development and review of service standards and other quality assurance activities is ongoing.
- 1.25. To assess this recommendation as implemented, the Office would expect ACTCS to finalise and endorse its IOM procedures including those relating to the parole process.

Recommendation 2

To ensure the new policy framework remains up to date and used by staff, ACTCS:

- develop and deliver a training program to ensure staff apply the new arrangements consistently.
- establish a process through which the framework is regularly reviewed and updated to reflect operational changes.

- 1.26. The Office considers ACTCS has implemented this recommendation. ACTCS advised staff training is ongoing as it continues to develop and implement its new IOM procedures throughout 2022. The Office notes ACTCS developed an initial

staff training schedule delivered from February to May 2022. ACTCS advised its training plan will be a 'living document' which will be updated as required.

- 1.27. ACTCS's completion of the Phase 1 – Women's Cohort rollout of the IOM will provide an opportunity for ACTCS to evaluate the success of the rollout, the newly created procedures and further training needs. The Office is satisfied ACTCS has a documented process for the regular review of the IOM framework and ongoing training requirements.

Recommendation 3

ACTCS assess any finalised policy documents for publication, as per open access requirements under the *Freedom of Information Act 2016*, with information published unless assessed as contrary to the public interest.

- 1.28. The Office considers ACTCS has implemented this recommendation. ACTCS published more than 100 policies and procedures on its [website](#), including 6 related to parole. ACTCS' Open Access Policy 2020 sets out how it will continue meeting its open access obligations under the *Freedom of Information Act 2016* (ACT). Clause 5.2 sets out mandatory requirements for ACTCS Executives to ensure documents are considered for open access within 2 weeks of finalisation.

Recommendation 4

ACTCS provide comprehensive information to detainees through the 'sentence management continuum' about sentence management and parole processes, with information effectively communicated, particularly for detainees with high and complex service needs, or alternative service requirements.

- 1.29. The Office considers ACTCS has implemented this recommendation. ACTCS provided a range of documents that support detainee communication across the 'sentence management continuum' and parole processes including the 'Parole Information Sheet', 'Detainee Handbook', 'Sentence Management Operating Procedure' and the 'ACTCS Disability and Inclusion Plan'. Each document clearly explains the steps involved in the parole and sentence management processes.

Recommendation 5

ACTCS review its records management framework and systems, and adjust them as necessary, to ensure:

- information is stored, managed and able to be retrieved by various work units along the 'sentence management continuum'.
- policies and procedures stipulate record management requirements in appropriate detail.

- 1.30. The Office considers ACTCS has partially implemented this recommendation. ACTCS reviewed its records management systems and determined the current system does not offer suitable capability to manage, store and report on offender information. The CORIS offender management system was identified as a suitable

system to offer effective offender information management capability, improve the real time availability of information, and enable reliable information and reporting.

- 1.31. The Corrective Services Information Management Solution (CSIMS) Project Plan indicates the new CORIS system will be implemented by August 2022. ACTCS has committed to provide the Office with evidence of implementation upon completion.
- 1.32. In the interim, ACTCS reviewed, updated, and published policies related to records management to support continued good records management practice, pending the implementation of the CORIS system and development of accompanying policies and procedures.
- 1.33. To assess this recommendation as implemented the Office would expect the CORIS system to have gone live and ACTCS to have policies and procedures in place that stipulate record management requirements in appropriate detail.

Recommendation 6

ACTCS develop and implement a business planning framework that enables it to pro-actively plan for upcoming phases of the sentence management continuum.

ACTCS consider the viability of prioritising planned development work and ensure this includes new reporting functionality to facilitate high level management of detainee cohorts through 'the continuum', taking into account their earliest release dates.

- 1.34. The Office considers ACTCS has partially implemented this recommendation. As discussed under the previous recommendation, ACTCS is in the process of implementing its IOM framework and introducing the new CORIS information management system. ACTCS advised it will provide the Office with evidence demonstrating its implementation of this recommendation during the second half of 2022.
- 1.35. To assess this recommendation as implemented the Office would expect ACTCS to have a policy in place that enables ACTCS to proactively plan for upcoming phases of the 'sentence management continuum'; and the CORIS system to have gone live with the new reporting functionality to facilitate high level management of detainee cohorts through 'the continuum' with their earliest release dates considered.

Recommendation 7

The induction policy be amended to require a discussion about parole at the induction stage and be supported by up-to-date written documentation.

- 1.36. The Office considers ACTCS has implemented this recommendation. In April 2021, ACTCS updated the Correction Management (Induction) Policy 2021, notifiable instrument NI2021-294, to include sentence management information. Clauses 8.14 to 8.18 specify the requirements for SMOs to meet with detainees during the induction process to discuss sentence management plans, goal setting, reintegration needs and the parole process for sentenced detainees. ACTCS

published the new version of the Correction Management (Induction) Policy 2021 on its website.

Recommendation 8

ACTCS put in place quality assurance processes and provide additional training and guidance for Sentence Management Officers (SMOs), to ensure Sentence Management Plans (SMPs) are created in consultation with the detainee, and are consistent, effective and timely.

- 1.37. The Office considers ACTCS has implemented this recommendation. ACTCS developed the Sentence Management Plan (SMP) operating procedure and template to provide instruction to the Sentence Management Unit (SMU) on how to develop a SMP for detainees in custody. The procedure includes the requirement to develop the SMP in consultation with the detainee and within 6 weeks of the detainee’s sentence commencement date.
- 1.38. In 2021, ACTCS delivered case management training to staff across the SMU, Throughcare and Community Correction teams. ACTCS advised delivery will continue throughout 2022. ACTCS provided the 2022 training schedule and the content for the staff case management training program to support a consistent staff approach. The Office reviewed the case management training content and is satisfied with the program. ACTCS advised it is committed to continuous improvement in case management training and is considering providing its staff with a vocational course in case management, for delivering through the ACTCS registered training organisation.

Recommendation 9

ACTCS finalise the draft Sentence Management Policy and develop complementary procedures, which include minimum service standards and quality assurance measures, to ensure:

- SMP reviews occur in a timely manner, with any delays documented.
- related action items are well-documented, with case notes clarifying what actions are required, by whom and by when.
- sentence management meetings have clear objectives to further a detainee’s preparedness for release, with further meetings scheduled if objectives are not reached.
- handovers of case matters from SMOs to Community Corrections Officers (CCOs) are fully documented, with responsibilities clarified.

- 1.39. The Office considers ACTCS has partially implemented this recommendation. ACTCS implemented the SMP operating procedure and template to provide instructions to the SMU on how to develop a SMP for detainees in custody. In 2021, ACTCS delivered the case management training program to staff across the SMU, Throughcare and Community Correction teams and delivery will continue throughout 2022.
- 1.40. ACTCS advised implementation of the IOM framework will include an audit for policies requiring review or development for staff use. The part of the

recommendation concerning development of complementary procedures – which include minimum service standards and quality assurance measures – is yet to be implemented. To assess this recommendation as implemented, the Office would expect the final approved procedural documents to satisfy all parts of the recommendation.

Recommendation 10

As a priority, ACTCS identify and implement new arrangements to ensure programs are more accessible to detainees, and particularly for those on remand.

- 1.41. The Office considers ACTCS has partially implemented this recommendation. ACTCS advised:
- A suite of comprehensive psychoeducational programs was developed, available to sentenced men, women and remandees.
 - A complete criminogenic suite of programs is planned.
- 1.42. On 29 September 2021, the ACTCS Commissioner endorsed new recommendations made by the Offender Reintegration Unit to:
- offer all sentenced and on remand persons at AMC, 6 educational self-paced booklet resources and 6 face-to-face psycho educational programs, delivered on a rotational basis, and
 - deliver a full suite of criminogenic programs to sentenced persons.
- 1.43. ACTCS provided participant attendance sheets for the face-to-face psychoeducational programs delivered between July to December 2021 and a minute endorsed by the ACTCS Commissioner.
- 1.44. To assess this recommendation as implemented, the Office would expect ACTCS to provide evidence that the full suite of programs has been rolled out to detainees and remandees.

Recommendation 11

ACTCS policy and procedures clearly set out requirements for SMOs to:

- provide a detainee with a parole application form, at least seven months in advance of their earliest release date (ERD).
- talk through the form with the detainee to ensure they understand what is required of them and the process going forward and document this discussion.
- support the detainee, where required, with their written application, or identify another support person to assist – for example, an Indigenous Liaison Officer (ILO), if the detainee identifies as Aboriginal or Torres Strait Islander.

- 1.45. The Office considers ACTCS has partially implemented this recommendation. ACTCS advised the SAB currently sends a letter via post to detainees 7 months prior to a detainee’s ERD. The letter outlines the detainee’s eligibility to apply for

parole and includes an application form. ACTCS advised its SMU procedures will be amended to reflect this practice.

- 1.46. ACTCS further advised its Offender Reintegration team will update the Operational Procedure to state that SMOs will discuss the parole application process with the detainee, and offer assistance, 7 months in advance of their earliest release date. The SMO will be required to document this discussion.
- 1.47. ACTCS will revise its Parole Information Sheet to include additional information about supports detainees may receive (from their SMO or others) to complete their parole application. .

Recommendation 12

The new ACTCS parole policy and complementary procedures:

- outline procedural fairness requirements, including in relation to Pre-Release Reports (PRR).
- include a formal quality assurance process to ensure PRRs are accurate and up to date before being provided to the Sentence Administration Board.

ACTCS engage with the SAB to clarify requirements for a Relapse Prevention Plan (RPP) – with a template made available and detainees assisted to complete them if required.

- 1.48. The Office considers ACTCS has implemented this recommendation. On 16 September 2021, the ACTCS Commissioner endorsed the Court Assessment, Pre-Sentence Report and Pre-Release Report Policy 2021 that sets out procedural fairness requirements and quality assurance processes, particularly in relation to Pre-Release Reports (PRR). ACTCS has published these documents on its website.
- 1.49. ACTCS advised it engaged with the SAB and together they re-developed the RPP in line with best practice standards. ACTCS advised that, in consultation with the SAB, it will continue updating the RPP as part of an ongoing best practice review process.

Recommendation 13

ACTCS:

- include arrangements in the finalised parole and Home Visit Assessment (HVA) policies to ensure accommodation issues are clearly communicated to detainees and addressed prior to Sentence Administration Board hearings.
- put in place quality assurance processes to ensure this occurs.

- 1.50. The Office considers ACTCS has implemented this recommendation. ACTCS provided its endorsed Court Assessment, Pre-Sentence Report and Pre-Release Report Policy 2021, Home and Field Visit Policy (HFVP) and accompanying PRR Quality Assurance (QA) Checklist. Supervisors must complete the checklist prior to a PRR being submitted to the Sentence Management Board (SMB) for consideration.

- 1.51. The Court Assessment, Pre-Sentence Report and Pre-Release Report Policy 2021 sets out procedural fairness requirements and quality assurance processes, including home visit assessments as they form part of the PRR. Clause 6.4 of the policy provides for home visit assessments to be undertaken at least 2 weeks prior to the PRR due date.
- 1.52. Clause 6.5 of the policy states the Community Correction Officer (COO) must notify the detainee and SMO of the home assessment suitability no later than one week after the home visit assessment was undertaken, to allow for further residential options to be assessed prior to the detainee SAB hearing.
- 1.53. The PRR QA Checklist asks, 'is there evidence the COO identified any accommodation issues and, in such cases, advised the detainee promptly to allow opportunity for rectification, where relevant?'. This is consistent with the HFVP and provides a level of quality assurance to ensure accommodation issues are communicated and addressed with the detainee prior to the SAB hearing.

Recommendation 14

ACTCS implement information sharing or relationship protocols with other agencies that are involved when preparing a detainee for parole, to clarify roles and responsibilities. The protocol with Housing ACT should be prepared as an immediate priority.

- 1.54. The Office considers ACTCS has partially implemented this recommendation. ACTCS advised it has relationships with government and non-government agencies that provide support to detainees and offenders being released from AMC.
- 1.55. ACTCS provided evidence of long-standing service agreements in place with Yeddung Mura (Good Pathways) Aboriginal Corporation and Catholic Care (Throughcare Program Outreach Services). Both service agreements clearly articulate roles and responsibilities for service delivery pre-release or post-release from AMC.
- 1.56. ACTCS provided the current Memorandum of Understanding (MOU) between ACTCS and Housing ACT for the Justice Housing Program (JHP). ACTCS acknowledged this MOU does not address parole or roles and responsibilities in relation to parole.
- 1.57. ACTCS advised Housing ACT has created a Specialist Housing Practitioner (SHP) team that provides a range of support services to detainees and community offenders. ACTCS advised communication systems are well established between the 2 agencies. ACTCS is continuing to liaise with Housing ACT to identify its interest in developing a new MOU, particularly in relation to parole and the JHP.
- 1.58. To assess this recommendation as implemented, the Office would expect information-sharing or relationship protocols in place between ACTCS and Housing ACT.

Recommendation 15

Formal arrangements and quality assurance processes are implemented to ensure:

- outstanding requirements are communicated to the SAB early, enabling hearings to be re-scheduled where required and SAB resources to be more effectively prioritised.
- detainees are prepared for SAB hearings, with any outstanding action items completed.
- ACTCS and detainees have a clear understanding of who is responsible for communicating with detainees throughout the parole process.

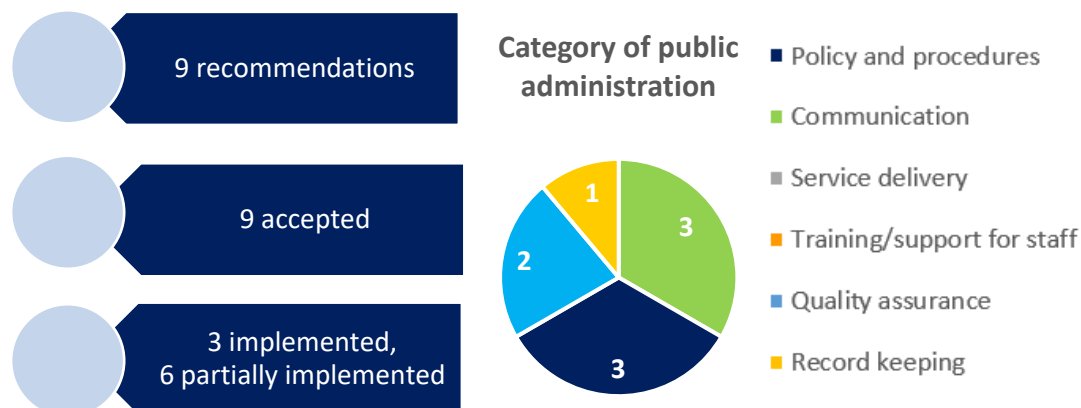
1.59. The Office considers ACTCS has implemented this recommendation. ACTCS provided the Pre-Sentence Report (PSR) and Pre-Release Report Policy 2021 (the Policy), approved by the ACTCS Commissioner on 16 September 2021. Clause 10.3 of the Policy requires the offender be provided a completed PSR or Court Assessment at least 2 days prior to the Court date. Clause 10.4 requires that a completed PRR be read and provided to the offender at least 2 days before the SAB inquiry date, so they can express any views on the accuracy of the report and are aware of any recommendations made by the Assessor. Clauses 10.5 and 10.6 requires the Team Leader and Directors to consult and contact the Court or Secretariat in advance of the parole hearing, when the timeframe for submitting parole documentation to the Court will not be met.

Recommendation 1	→	Partially Implemented
Recommendation 2	→	Implemented
Recommendation 3	→	Implemented
Recommendation 4	→	Implemented
Recommendation 5	→	Partially Implemented
Recommendation 6	→	Partially Implemented
Recommendation 7	→	Implemented
Recommendation 8	→	Implemented
Recommendation 9	→	Partially Implemented
Recommendation 10	→	Partially Implemented
Recommendation 11	→	Partially Implemented
Recommendation 12	→	Implemented
Recommendation 13	→	Implemented
Recommendation 14	→	Partially Implemented
Recommendation 15	→	Implemented

PART 3: ACT REVENUE OFFICE

TRANSPARENCY OF COMMERCIAL LAND VALUATION DECISIONS IN THE ACT

Figure 8 – Recommendations summary and categories of public administration



- 1.60. In 2019, the ACT Ombudsman commenced investigating an individual complaint about a land valuation decision. While the block of land the subject of the complaint had unusual characteristics, the investigation identified broader concerns about the transparency of the valuation process for commercial land in the ACT. These concerns involved the ACT Revenue Office (ACTRO) failing to document reasons for increases in the Unimproved Value of commercial property and failing to provide property owners with reasons.
- 1.61. As land valuations are used in the calculation of rates and land tax liabilities, property owners require reasons for valuation decisions to understand how changes in valuation are calculated. In certain markets, where adequate property sales data is available, unimproved land values can be calculated using a mass appraisal benchmarking method. When a valuation is done on an individual basis, the specific considerations used to make the valuation should be recorded and made available when requested.
- 1.62. The issues raised through the investigation of this complaint led to the Office publishing its [Investigation into the transparency of commercial land valuation decisions in the ACT](#) report in August 2020.

Summary of recommendations

- 1.63. The report recognised efforts made by ACTRO since 2019 to improve its communications around valuation processes. However, the Office’s investigation into the original complaint identified the following broader concerns about decision making and transparency of commercial property valuations:
- limited explanation around valuation methods and decision-making
 - no documentation of the details of the valuation decision-making process
 - property owners were not provided with reasons for increases in valuations

- a requirement that property owners raise a formal objection to obtain detailed information about the valuation of their property.

1.64. The report made 9 recommendations for improved decision-making and transparency; namely that when a decision is made, the reasons for the decision should be recorded and made available to the people affected by the decision. ACTRO accepted all 9 recommendations. The Office considers ACTRO has implemented 3 recommendations and partially implemented 6 recommendations.

Engagement with the ACT Revenue Office

1.65. Since 2019, the Office of the ACT Ombudsman and ACTRO have remained in regular contact about the concerns raised in the original complaint and issues uncovered during the subsequent investigation.

1.66. In July 2021, our Office received a letter from ACTRO outlining what it had done to implement our recommendations. This was supplemented by additional information ACTRO provided to our Office in August 2021 and January 2022.

Recommendation 1

ACTRO develop and maintain a policy which provides transparency and guidance about how the commercial land valuation process occurs, including where a regrading program is undertaken for a particular suburb. The policy should outline the high-level policy framework.

1.67. The Office considers ACTRO has implemented this recommendation. The Office reviewed ACTRO's 'Rates Charges and Valuation Processes' webpage, which can be accessed via a button on the 'Land valuations' webpage titled 'Like to know more about the valuation process?'. The 'Rates Charges and Valuation Processes' webpage describes the legal basis for the application of property taxes and concepts of land valuation. It outlines the high-level policy framework relevant to the land valuation process, including providing an explanation of the various steps in the land valuation process and rationale for changes to valuations. The webpage includes a description of the process for location or submarket group 'regrades'.

Recommendation 2

The new policy should be complemented by an updated procedures manual, including data entry and quality assurance processes, to provide guidance to decision-makers and promote more consistent decision-making and documentation.

The new procedures should outline requirements in terms of valuation analysis and documentation of decisions.

1.68. The Office considers ACTRO has partially implemented this recommendation. ACTRO provided a copy of the draft ACT 'Rating and Taxing Valuation Procedures Manual' (the draft Manual). The introduction to the draft Manual notes the overarching requirement that every unimproved value must be capable of being individually tested and supported against the available market evidence.

- 1.69. Our Office notes ACTRO’s advice that work on the draft Manual is continuing and the processes within it have not been fully incorporated into valuation practice. The draft Manual states that the full scope of processes included in the Manual will not be met for the 2022 or 2023 General Revaluation. ACTRO notes this is due to several factors including limited access to office facilities (increasing dependence on remote systems), lack of analytical tools to support compliance, surges in supplementary valuation work associated with new land releases, job referral practices causing workflow bottlenecks for the ACT Valuation Office and increased technical complexity associated with other statutory valuation assignments.
- 1.70. To assess this recommendation as implemented, the Office expects the manual to be completed. Our Office looks forward to receiving a copy of the completed Manual when it is finalised.

Recommendation 3

Where decisions are made to increase the Unimproved Value (UV) of a commercial property block on an individual basis, the details and reasons for the changes are clearly recorded.

- 1.71. The Office considers ACTRO has partially implemented this recommendation. As noted under Recommendation 2, the draft Manual states the overarching requirement that every unimproved value must be capable of being individually tested and supported against the available market evidence. As the full scope of processes outlined in the draft Manual will not be met for the 2022 or 2023 General Revaluation, our Office cannot at this stage assess Recommendation 3 as implemented.
- 1.72. ACTRO advised the draft Manual includes a standardised approach for extracting records of properties reviewed in a Revaluation cycle, and the format and content of the analysis used to support the valuation decision for the extracted group of properties. The draft Manual states a project plan will be developed that includes details of the allocation of specific sectors of the rating program to valuers. ACTRO advised that property localities and property types identified for special review will be allocated to a valuer with the requisite experience and accreditation.
- 1.73. To assess this recommendation as implemented, the Office expects the manual to be completed. Our Office looks forward to receiving a copy of the completed Manual when it is finalised.

Recommendation 4

ACTRO develop a mechanism for commercial property owners to obtain reasons for UV increases up front before the objections process. This should be done as a priority for property owners impacted by significant increases (that is, more than 20 per cent).

- 1.74. The Office considers ACTRO has implemented this recommendation. The Office reviewed ACTRO’s ‘Rights and objections’ webpage which describes a new process for commercial land, commencing in 2021–22 that:
- allows owners to request additional information prior to lodging an objection

- provides additional information about the sales considered with the determination of the unimproved value of commercial property
 - aims to assist owners to decide whether to lodge an objection
 - aims to inform any objection owners choose to lodge.
- 1.75. The Office also reviewed the ‘Rates (Objections Period) Determination 2021’ and the related Explanatory Statement. This Instrument supports the mechanism to allow owners of commercial land to request additional information, prior to lodging an objection, by providing additional time for owners to make objections to valuations if further information is requested.

Recommendation 5

ACTRO provide clear advice to the community via its website and in relevant correspondence regarding:

- the threshold for accepting an objection.
- the information that must be provided to ‘sustain’ an objection.

- 1.76. The Office considers ACTRO has partially implemented this recommendation. The Office reviewed ACTRO’s ‘Rights and objections’ webpage which states ‘when you lodge an objection, you should clearly state the reasons for your objection to the unimproved land value. You bear the responsibility of showing that the objection should be upheld.’ The webpage includes information on ACTRO’s new process in relation to commercial land, which allows owners to request additional information prior to lodging an objection.
- 1.77. The Office notes there is a link to ‘valuation objections’ under the subheading ‘Time limit for objection’ on ACTRO’s general ‘Objecting to an assessment or a decision’ webpage. We suggest ACTRO considers including this link earlier on the general webpage, for example, including a statement such as “Information on objections about Residential or Commercial Valuations is available on the webpage ‘valuation objections’”.
- 1.78. ACTRO advised that work on its objection guidance is continuing. To assess this recommendation as implemented, the Office would expect ACTRO to provide guidance on:
- the threshold for accepting an objection (for example, an explanation/details regarding any thresholds for accepting objections)
 - the information that must be provided to ‘sustain’ an objection (this could include an explanation of the type of information or documentation an owner may wish to include to support an objection).

Recommendation 6

Once finalised, ACTRO (CMTEDD) publish the recommended policy as per its open access obligations under the *Freedom of Information Act 2016* (FOI Act) or provide reasons why publishing the policy is not appropriate.

- 1.79. The Office considers ACTRO has partially implemented this recommendation. ACTRO advised documentation related to the implementation of recommendations 1, 8 and 9 is available on its website.
- 1.80. To assess this recommendation as implemented, the Office would expect the completed Manual (recommendation 2) and any relevant material related to other recommendations is available on the ACTRO website.

Recommendation 7

ACTRO (CMTEDD) review whether it is meeting its open access obligations under the FOI Act and consider more pro-active release of policy documentation consistent with the objects of the FOI Act.

- 1.81. The Office considers ACTRO has partially implemented this recommendation. ACTRO advised that open access information is made available via its website, which is updated regularly, or as soon as it is reasonably practicable.
- 1.82. Initially, no evidence was provided that ACTRO had reviewed whether it is meeting its open access obligations under the FOI Act and considered more pro-active release of policy documentation. ACTRO subsequently advised it will conduct an internal review of open access information in the first half of 2022.
- 1.83. To assess this recommendation as implemented, the Office would expect ACTRO to complete a review to determine whether it is meeting its open access obligations under the FOI Act, and consider more pro-active release of policy documentation.

Recommendation 8

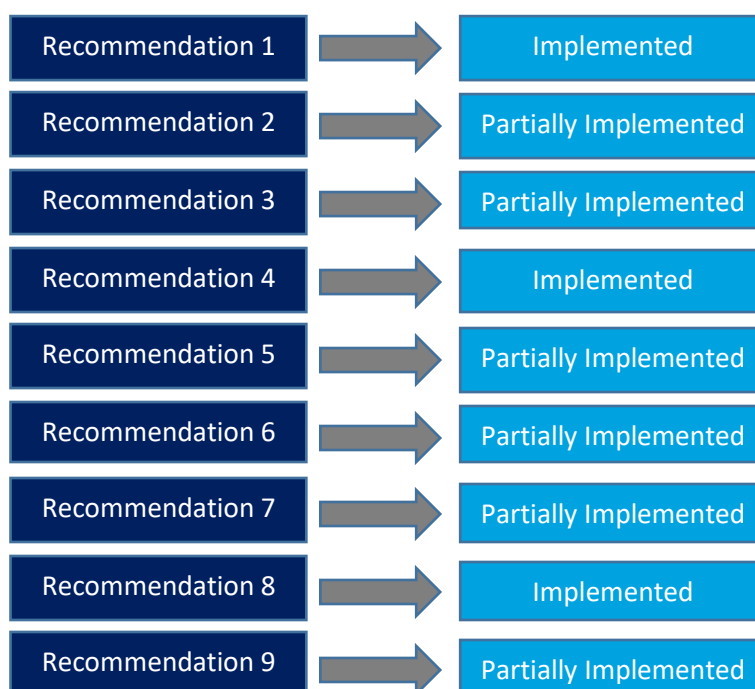
ACTRO review its website information on property valuation in the ACT. As part of this review, ACTRO consider providing tailored information for commercial and residential property owners on separate web pages. Information provided should meet accessibility standards and be clear and easy to understand.

- 1.84. The Office considers ACTRO has implemented this recommendation. The Office reviewed the information available on ACTRO's 'Land Valuations' webpage and noted there are separate sections explaining 'Residential Values' and 'Commercial Valuations'. The webpage also includes a link to a PDF document on 'Changes in unimproved value for commercial property by area'.

Recommendation 9

ACTRO publish on its website a summary of the changes that have led to revaluations in particular suburbs following an annual revaluation exercise.

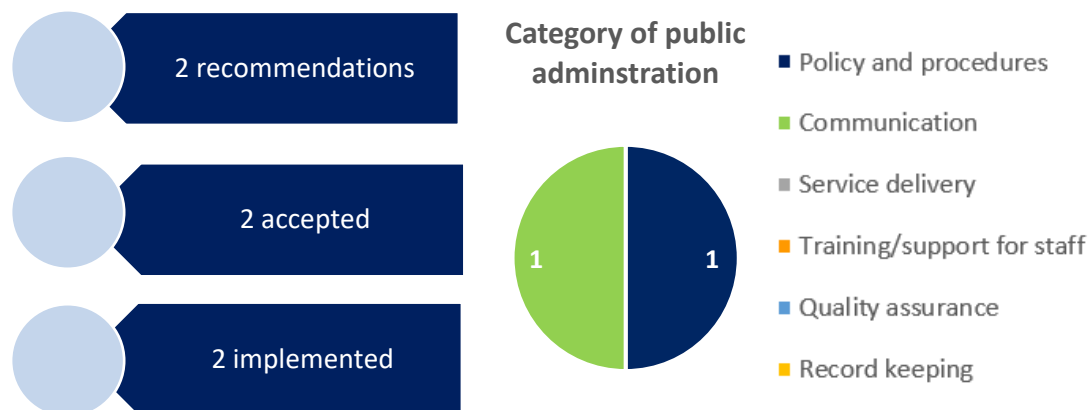
- 1.85. The Office considers ACTRO has partially implemented this recommendation. ACTRO provided a high-level explanation about changes that lead to revaluations in the 'Residential Values' section of its webpage. The average change in value by locality is provided and the webpage notes the localities where valuation effort was focused and flags the focus in future years. It would be useful to include further information that summarises the changes that lead to revaluations in particular suburbs, following an annual revaluation exercise.
- 1.86. The 'Commercial Valuations' section provides high-level information and useful context. Some useful context is also provided in relation to specific areas/suburbs. Further summary information of changes that lead to revaluations in particular suburbs would be useful to supplement the existing material. ACTRO advised it is drafting website material regarding unimproved values and will consider the Office's comments as part of this process.



PART 4: AUSTRALIAN FEDERAL POLICE

HANDLING OF ALLEGATIONS MADE ABOUT THE HON ANGUS TAYLOR MP

Figure 9 – Recommendations summary and categories of public administration



- 1.87. In March 2020, the Office commenced an investigation into the Australian Federal Police’s (AFP) decision to finalise an investigation into allegations related to the Hon Angus Taylor MP and information in the City of Sydney’s Annual Report (‘the matter’) after receiving over 150 complaints from members of the public.
- 1.88. The then Ombudsman made a [public statement](#) detailing this investigation and its findings. We published the statement on the Office’s website on 16 November 2020.
- 1.89. The Office found it was lawful and open to the AFP to refrain from investigating the matter further. However, it would have been beneficial for the AFP to have sought further information from Mr Taylor or his office as part of its enquiries before deciding not to investigate further.
- 1.90. The Office also found the AFP could have more clearly explained its decision to not investigate this matter further, and it could strengthen its decision-making framework by including reference to the risk of harm to public institutions.

Summary of recommendations

- 1.91. The Office made 2 recommendations to the AFP following this investigation. The recommendations go to the following principles of good public administration: clear communication, transparency in decision-making and strong decision-making frameworks.
- 1.92. The AFP accepted the 2 recommendations. The Office considers both recommendations were implemented based on our analysis of documents provided by the AFP.

Engagement with the AFP

- 1.93. The then Ombudsman wrote to the AFP Commissioner at the commencement and finalisation of our investigation. Throughout the investigation, the Office engaged with the AFP to gather information, discuss the preliminary findings and provide the AFP with an opportunity to respond.
- 1.94. On 23 October 2020, the AFP advised the Office it agreed with the 2 recommendations in the public statement and provided its own public statement to address the first recommendation.
- 1.95. The Office continued to engage with the AFP, seeking information to demonstrate whether the second recommendation was implemented. The AFP provided this information.

Recommendation 1

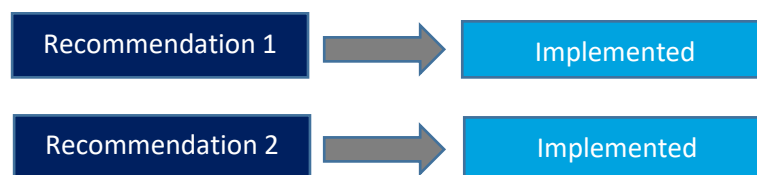
The AFP place on the public record a more detailed statement explaining their decision-making process used in this matter.

- 1.96. The Office considers the AFP has implemented this recommendation. At the finalisation of the Office’s investigation, the AFP provided a detailed statement of their decision-making process and we published this on the Office’s website. We also note the AFP referred to the Office’s investigation in a press release on its website.

Recommendation 2

The AFP consider including in the Operational Prioritisation Model provisions which more clearly contemplate that harm to public confidence in Australia’s democratic institutions is a factor that should be considered when assessing whether to investigate future matters.

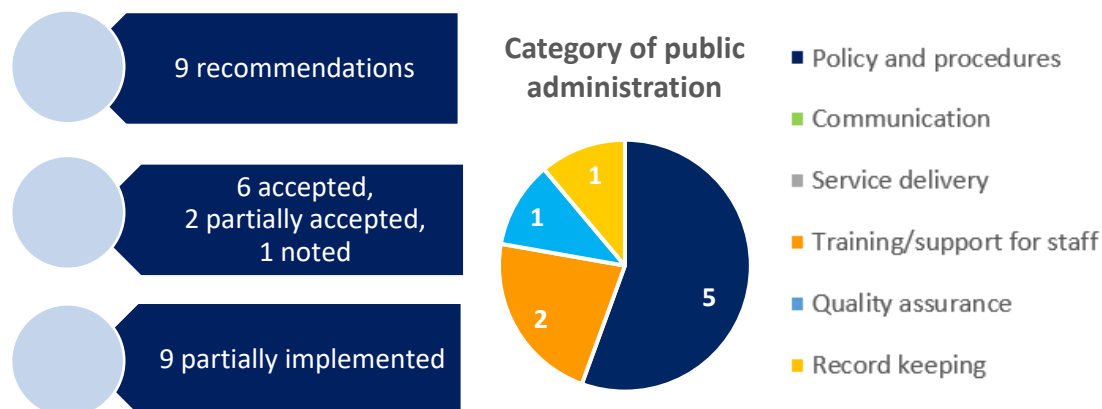
- 1.97. The Office considers the AFP has implemented this recommendation. The AFP advised it is in the process of implementing its Operational Prioritisation Model (OPM). The OPM is a framework that establishes the broad criteria for consideration to prioritise which matters to investigate, or not. A core component of the OPM is assessing ‘harm’. The updated OPM provided to our Office includes an assessment of harm to public confidence in Australia’s democratic institutions, which is a factor in considering whether a matter should be investigated. As of 28 September 2021, AFP Southern Command was undertaking a trial of the OPM.
- 1.98. The AFP expects the implementation phase of the OPM to be completed in June 2023. The Office will seek updates from the AFP on the development, trial and implementation of the OPM.



PART 5: ACT POLICING

ENGAGEMENT WITH THE ACT ABORIGINAL AND TORRES STRAIT ISLANDER COMMUNITY

Figure 10 – Recommendations summary and categories of public administration



- 1.99. Our Office receives complaints from individuals and has broader interactions with both the ACT First Nations community and ACT Policing. In these contexts, we heard about examples of poor practice in police officer engagement with members of the ACT First Nations community as well as examples of excellent and respectful community engagement.
- 1.100. Our Office investigated ACT Policing’s administrative arrangements to better understand how ACT Policing approaches its engagement with the ACT First Nations community. The Office published the report [ACT Policing’s administrative framework for engagement with the ACT Aboriginal and Torres Strait Islander community volume 1](#) and [volume 2](#) in March 2021.

Summary of recommendations

- 1.101. Our Office made 9 recommendations aimed at improving ACT Policing’s approach to supporting its members engagement with the ACT First Nations community in a positive and respectful manner. Our recommendations reflect 4 themes of good administration:
- a strong governance framework that supports the delivery of program commitments
 - policies and procedures that clearly articulate expectations
 - transparency and accountability with the community
 - the ability to measure and evaluate success.
- 1.102. Many of our recommendations emphasise that ACT Policing should implement the recommendation in consultation with the ACT First Nations community. We note, during the investigation, ACT Policing considered meaningful consultation with the ACT First Nations community to be a step towards embedding trust and ensuring,

wherever possible, solutions to the issues raised in our report are jointly progressed by ACT Policing and the community.

- 1.103. We acknowledge effective consultation takes time and there has been a relatively brief period between the investigation report’s publication and this report. At the time of our assessment, we consider ACT Policing has taken limited steps to implement the recommendations. This is partly due to the nature of the recommendations – which are focused on long-term improvement and require meaningful engagement with the ACT First Nations community to implement successfully – as well as the necessary diversion of ACT Policing resources to enforcement of COVID-19 directions during this period. ACT Policing provided timeframes for its expected implementation of each recommendation, and we note these below. We plan to monitor progress as part of our regular and ongoing engagement with ACT Policing.

Engagement with ACT Policing

- 1.104. On 27 July 2021, the then Commonwealth and ACT Ombudsman wrote to the Australian Federal Police (AFP) Commissioner to request information to support our assessment of implementation progress against our recommendations.
- 1.105. On 27 August 2021, the Commissioner advised our Office its estimated timeframes reflect the time it will realistically take to give effect to the intent of the recommendations, and to progress meaningful and comprehensive engagement with the ACT First Nations community and stakeholders. Our Office supports this assessment and the approach proposed by the AFP and ACT Policing.
- 1.106. On 7 September 2022, ACT Policing provided its formal response to the draft report, including revised timeframes for implementation of all recommendations. The ACT Policing response and timeframes are provided in the appendix to this report.

Recommendation 1 - Overarching Strategic Plan

We recommend ACT Policing develops an overarching strategic plan to manage the development and delivery of ACT Policing’s roles and responsibilities in relation to ACT Aboriginal and Torres Strait Islander community specific justice programs.

ACT Policing should adopt a program management approach to delivering new Police Services Model objectives, community policing programs and related commitments to justice targets for the ACT Aboriginal and Torres Strait Islander community under the plan.

- 1.107. The Office considers ACT Policing’s implementation of this recommendation is in progress. We note ACT Policing’s advice that it expects to fully implement this recommendation by March 2023.

Recommendation 2 – Standard Operating Procedures

We recommend ACT Policing develops standard operating procedures for community policing activities and complementary programs to ensure contact with ACT Aboriginal and Torres Strait Islander community members is consistent with legislative requirements and appropriately facilitates access to community diversionary and support programs.

Procedures should:

- provide guidance to ACT Policing members to support decision-making, including the administrative application of relevant legal requirements.
- include triggers for the review or update of procedures to ensure they reflect the current operating environment.

Without limiting the procedures required:

- existing procedures relating to use of cautions, national custody guidelines, interviews, Sobering Up Shelter, and Alcohol and Drug diversions should be amended in accordance with the above.
- new procedures should be developed for field contacts, arrests, Front Up and referrals to Police Community Youth Club.

1.108. The Office considers ACT Policing’s implementation of this recommendation is in progress. We note ACT Policing’s advice that it expects to implement this recommendation by December 2022.

Recommendation 3 – Indigenous Identifying Information

We recommend ACT Policing consults with the ACT Aboriginal and Torres Strait Islander community, our Office, the Justice and Community Services Directorate, the Aboriginal Legal Service and any other relevant stakeholders to determine when and how it will ask members of the public whether they identify as Aboriginal or Torres Strait Islander.

The position developed as an outcome of this consultation should be included in each of ACT Policing’s relevant policies and procedures for members.

1.109. The Office considers ACT Policing’s implementation of this recommendation is in progress. We note ACT Policing’s advice that it expects to implement the recommendation by December 2022.

Recommendation 4 – Program evaluation and data analysis

We recommend ACT Policing establishes performance measures and conducts regular and ongoing evaluation of community policing activities and complementary programs to enable it to measure success against justice targets and strategic objectives.

Demographic data should be analysed and used to inform evaluation activities and continuous improvement.

- 1.110. The Office considers ACT Policing’s implementation of this recommendation is in progress. We note ACT Policing’s advice that it expects to implement the recommendation by July 2022.

Recommendation 5 – Engagement and consultation strategy

We recommend ACT Policing develops an engagement and consultation strategy to manage its relationship with the ACT Aboriginal and Torres Strait Islander community. The strategy should:

- link engagement and consultation activities to strategic objectives.
- provide clear outcomes that are measured and reported on publicly by ACT Policing.
- be developed in consultation with the ACT Aboriginal and Torres Strait Islander community.

- 1.111. The Office considers ACT Policing’s implementation of this recommendation is in progress. We note ACT Policing’s advice that it expects to implement the recommendation by March 2023.

Recommendation 6 – Evaluation of Aboriginal Liaison Officer Role

We recommend ACT Policing evaluates and clearly defines the roles and responsibilities of Aboriginal Liaison Officers (ALO), to clarify expectations and ensure the ALOs are enabled to support effective communication between the ACT Policing members and the ACT Aboriginal and Torres Strait Islander community.

Evaluation should:

- be conducted in consultation with the ACT Aboriginal and Torres Strait Islander community.
- take place on a regular basis to ensure the roles remain aligned with program outcomes.

- 1.112. The Office considers ACT Policing’s implementation of this recommendation is in progress. We note ACT Policing’s advice that it expects to implement the recommendation by July 2022.

Recommendation 7 – Cultural Training Strategy

We recommend ACT Policing develops a strategy to support the development, delivery and ongoing evaluation of cultural training. The strategy should be informed by best practice in cultural training and include regular and ongoing evaluation so that training is best placed to achieve intended outcomes and is responsive to current issues and emerging risks.

1.113. The Office considers ACT Policing’s implementation of this recommendation is in progress. We note ACT Policing’s advice that it expects to implement the recommendation by July 2022.

Recommendation 8 – Record Management Policy

We recommend that ACT Policing amends its records management policy and procedure to ensure records relevant to engagement with the ACT Aboriginal and Torres Strait Islander community are created, stored and accessible to ACT Policing staff.

1.114. The Office considers ACT Policing’s implementation of this recommendation is in progress. We note ACT Policing’s advice that it expects to implement the recommendation by March 2023.

Recommendation 9 – Complaint Handling Guidelines

We recommend AFP and ACT Policing amends current complaint handling guidelines to include prompts for complaint handlers to request and record Aboriginal and Torres Strait Islander status during the complaint process.

The guidelines should support ACT Policing to identify risks and issues affecting the ACT Aboriginal and Torres Strait Islander community.

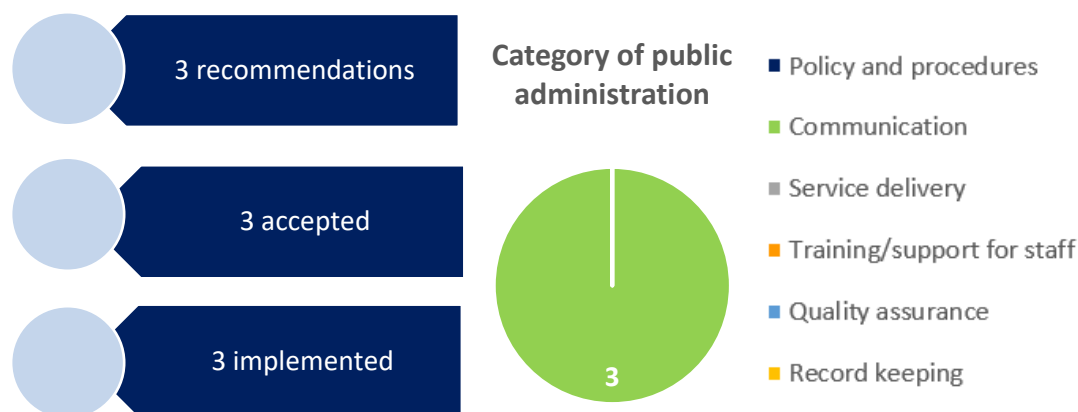
1.115. The Office considers ACT Policing’s implementation of this recommendation is in progress. We note ACT Policing’s advice that it expects to implement the recommendation by July 2022.



PART 6: COMMONWEALTH SUPERANNUATION CORPORATION

DEFENCE FORCE RETIREMENT AND DEATH BENEFITS SCHEME

Figure 11 – Recommendations summary and categories of public administration



- 1.116. In 2019, the then Commonwealth Ombudsman initiated an investigation into the accuracy of information provided by the Department of Defence (Defence) and Commonwealth Superannuation Corporation (CSC) to Defence Force Retirement and Death Benefits (DFRDB) members regarding commutation of retirement pay. This followed a request by the then Minister for Veterans and Defence Personnel, the Hon Darren Chester MP. The Office published its report, [Investigation into the administration of the Defence Force Retirement and Death Benefits \(DFRDB\) scheme](#) in December 2019.
- 1.117. The DFRDB scheme was originally overseen by the DFRDB Authority (now the CSC). Australian Defence Force (ADF) members who participate in the scheme are entitled to retirement pay in the form of a pension, part of which may be commuted. ‘Commutation’ refers to a member’s entitlement to receive a lump sum payment at the point of discharge, in exchange for a permanently reduced retirement pay.
- 1.118. The Office found many DFRDB members were provided incorrect information by Defence. We found DFRDB members were led to believe, incorrectly, that their commuted pensions would increase once they reached their life expectancy factor age. While our Office considered the incorrect information provided by Defence amounted to defective administration, we considered this did not result in financial detriment to DFRDB members relative to not commuting.
- 1.119. The Office also found while the DFRDB Authority (now the CSC) always provided correct information, the information was not clear enough to correct the misunderstanding many members had from their interactions with Defence. We recommended changes to CSC’s forms and letters to remove any doubt for members that the reduction to retirement pay following commutation is permanent. While a lesser issue, we also identified CSC’s brochures could more clearly explain the impact of commutation on indexation arrangements.

Summary of recommendations

- 1.120. The recommendations we made in this report go to 2 principles of good public administration. Namely, the public should have access to all relevant information to enable informed decision-making, and the importance of procedural guidance and training for staff to ensure accurate information is provided.
- 1.121. CSC and Defence accepted all 3 of our recommendations. The Office considers all 3 recommendations implemented based on our analysis of documentation provided by CSC.

Engagement with Commonwealth Superannuation Corporation and Defence

- 1.122. In November 2019, the Secretary of Defence and Chief of the Defence Force wrote to the then Commonwealth Ombudsman and provided a copy of a letter apologising to DFRDB members. This letter was also published on the Defence and CSC websites, fulfilling recommendation 1.
- 1.123. In July 2020, our Office wrote to CSC seeking an update on the steps CSC took to implement recommendations 2 and 3. In August 2020, CSC provided documents to demonstrate it had implemented both recommendations. Our Office advised CSC in the same month that we were satisfied both recommendations were implemented.

Recommendation 1

1.1 The Secretary of Defence and Chief of Defence Force should issue an apology for the incorrect advice provided to some DFRDB members about the long-term effects of commutation on retirement pay, and for the distress it caused.

1.2 The apology should be published on the Defence and CSC websites and be available to DFRDB members on request to Defence.

- 1.124. The Office considers this recommendation implemented. The Secretary of Defence and Chief of the Defence Force issued a letter to DFRDB members apologising for providing incorrect advice to some DFRDB members on the long-term impact of commutation and for the confusion and emotional impact this may have caused. We published the apology in the investigation report.

Recommendation 2

2.1 Commutation election forms and standard letters (sent to members in advance of their retirement and immediately after commutation) should clearly explain commutation will result in a permanent reduction to retirement pay.

2.2 CSC should also identify whether there are any members who have discharged and have already received the existing standard letter, but who are still in time to either commute, or ask CSC to reverse their commutation election. CSC should write to this cohort to explain that commutation will result in a permanent reduction to retirement pay.

- 1.125. The Office considers CSC has implemented this recommendation. The Office reviewed several forms and letters sent to DFRDB members in advance of their

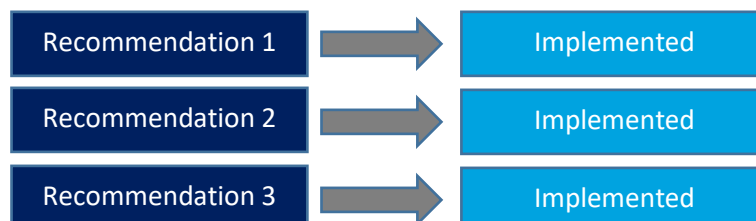
retirement and upon commutation and found these documents clearly explain commutation will result in permanent reduction to retirement pay.

- 1.126. The Office also reviewed letters to members who have discharged and already received the existing standard letter but were still in time to commute or ask CSC to reverse their commutation election. These letters explain commutation will result in a permanent reduction to retirement pay.

Recommendation 3

3.1 CSC should amend its DFRDB About Your Scheme and Retirement Benefits publications to clearly explain there may be longer-term indexation related consequences of commuting more than four times the annual amount of retirement pay.

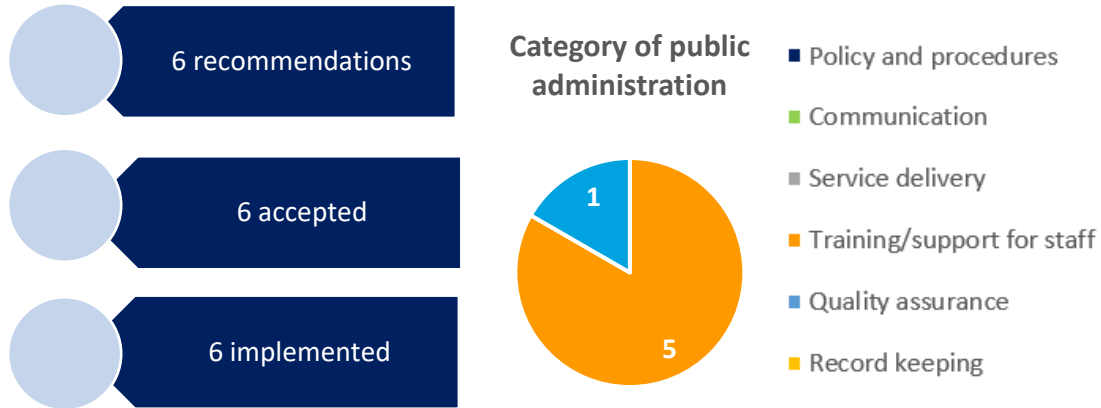
- 1.127. The Office considers CSC has implemented this recommendation. The Office reviewed CSC's updated *About Your Scheme* booklet and is satisfied it explains a DFRDB member who commutes more than 4 times the annual amount of their retirement pay may experience indexation consequences with their remaining retirement pay. This is explained with reference to an example where no election is made to commute or a member elects to commute less than 4 times their retirement pay. The booklet highlights that in these circumstances, indexation will only be applied to the rate of retirement pay the member would be entitled to had they elected to commute 4 times their retirement pay.



PART 7: DEPARTMENT OF DEFENCE

DEFENCE'S POLICIES FOR RECEIVING AND RESPONDING TO REPORTS OF ABUSE

Figure 12 – Recommendations summary and categories of public administration



- 1.128. The Defence portfolio consists of several organisations responsible for supporting the defence of Australia. In the Office’s role as the Defence Force Ombudsman, we maintain oversight of the Department of Defence and the Australian Defence Force (ADF) which consists of the 3 services, the Royal Australian Navy (Navy), the Australian Regular Army (Army) and the Royal Australian Air Force (Air Force).
- 1.129. In this report the term ‘Defence’ relates to both the Department of Defence and the ADF. We use the term ‘ADF’ when explicitly referring to the 3 services as a collective. The term ‘the services’ is used when referring to contextual differences between the Navy, Army, and Air Force.
- 1.130. As the Defence Force Ombudsman, we receive reports of abuse from members of Defence and can inquire into matters relating to complaints of abuse. We conduct inquiries to gain assurance that Defence’s approach to managing the issue of abuse is effective and appropriate and is consistent with the priorities identified by the Government.

Summary of recommendations

- 1.131. In 2017, the Office began an inquiry into Defence’s written policies for making and responding to reports of abuse within Defence. In August 2019, the Office released its report, [Defence’s policies for receiving and responding to reports of abuse](#), making 6 recommendations, all of which Defence accepted.
- 1.132. We found overall, Defence’s policies and procedures were appropriate and supported the making and handling of reports of abuse. We identified some areas for improvement to assist Defence to maintain a prevention-focused culture in relation to with respect to abuse.
- 1.133. The Office considers all 6 recommendations implemented based on our analysis of Defence’s self-assessment and supporting documentation.

Engagement with Defence

- 1.134. In December 2020, Defence provided the Office with a written update on its progress implementing the 6 recommendations made in the inquiry. In February 2021, the Office and Defence began discussing the steps Defence took to implement the recommendations.
- 1.135. Throughout 2021, the Office continued working with Defence to understand what further action Defence intended taking to implement our recommendations. The Office considers Defence had fully implemented all 6 recommendations prior to follow up work commencing in preparation for this report.

Recommendation 1 – Communicating principles of trauma-informed service

We recommend Defence clearly explain the five trauma-informed principles. This will provide managers and commanders with a greater understanding of the key considerations in handling reports of abuse consistently with a trauma-informed approach.

- 1.136. The Office considers Defence has implemented this recommendation. The Office reviewed the Sexual Misconduct Response and Support procedure which sets out a trauma-informed approach for responding to disclosures of sexual misconduct. The procedure explains the elements of each trauma-informed principle and provides steps that can be taken by those responding to reports of sexual misconduct (including managers and superiors) so they can give effect to those principles.
- 1.137. The Office also reviewed materials on Defence intranet pages that explain the 5 trauma-informed principles to assist managers and commanders responding to reports of abuse. Defence advised that managers and commanders are provided with incident management workshops which train staff on how to apply the principles of trauma-informed care.

Recommendation 2 – Guidance for equity advisers

We recommend Defence updates its policies and procedures for equity advisers to incorporate guidance on the trauma-informed principles and approach.

- 1.138. The Office considers Defence has implemented this recommendation. The Office reviewed information sheets Defence provides to workplace behaviour advisors (previously known as Equity Advisors), commanders, managers and supervisors. The information sheets incorporate guidance for workplace behaviour advisors on how to practically apply the 5 trauma-informed principles and explains the importance of giving effect to the principles when communicating with a traumatised person.
- 1.139. Defence also advised it has updated its training package for workplace behaviour advisors to include information on the 5 trauma-informed principles.

Recommendation 3 – Guidance for referring matters to civilian police

We recommend Defence review the Service Police Manual (SPMAN) to include information to help investigators identify how and when matters should be referred to civilian police.

- 1.140. The Office considers Defence has implemented this recommendation. The Office reviewed the *Military Police Volume 2* (which replaced the *Service Police Manual*) which lists offences that should be considered for referral to civilian policing agencies. The Manual also directs investigators to record any decisions about referrals in the Defence Policing and Security Management System.
- 1.141. Defence also advised that the Joint Military Policing Unit has exchanged letters with state and territory policing agencies formalising the intent to strengthen interoperability between the organisations. This will include formal arrangements for the referral of allegations such as treason, murder, manslaughter, bigamy, and offences of penetrative sexual assault.

Recommendation 4 – Guidance for reporting abuse

We recommend Defence develop and widely distribute a card, fact sheet or similar product which outlines all avenues for reporting abuse and accessing advice and support.

- 1.142. The Office considers Defence has implemented this recommendation. The Office reviewed Defence's Incident Reporting Hub which brings together the main incident reporting mechanisms on Defence's intranet. The Incident Reporting Hub provides information to current Defence members on how to report incidents, and details about the support mechanisms available both internally and external to Defence.
- 1.143. Defence also took steps to provide access to guidance on reporting abuse outside its intranet for personnel on deployment or former members of Defence. We reviewed a webpage Defence published on its external website during 2021 providing information to individuals about how to report abuse and how to access advice and support.

Recommendation 5 – Connect reporting pathways

We recommend Defence audit the materials that members, managers or commanders might reasonably access to find information about making and handling reports of abuse (even if not specifically developed for this purpose), to ensure they:

- Are cross-referenced with other, more targeted documents about reports of abuse.
- Include clear information about referral pathways for victims making reports and sources of advice for members handling reports.

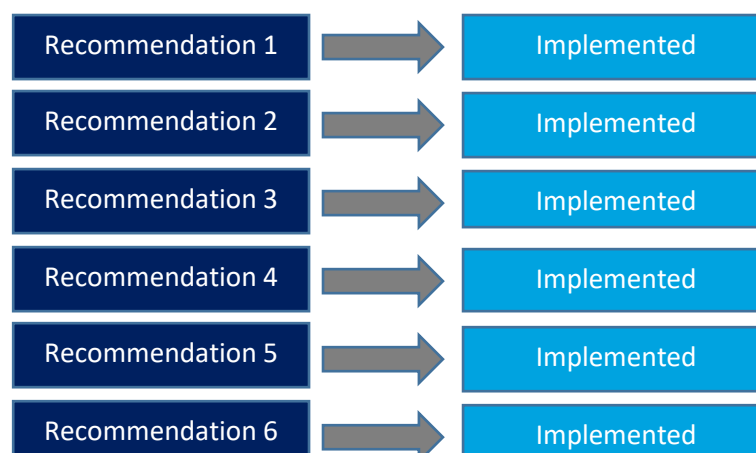
- 1.144. The Office considers Defence has implemented this recommendation. The Office reviewed an audit report on Defence's Framework for Managing the Risk of Sexual Misconduct in Defence. The audit focused on the sexual misconduct framework and the materials members, managers and commanders might access to find information about making and handling reports of sexual misconduct.

- 1.145. Separate to the audit, Defence progressed several initiatives in relation to accessibility of information about making and handling reports of all forms of unacceptable behaviour. This includes the development of several short videos Defence published on its intranet in 2021 regarding unacceptable behaviour.
- 1.146. The Office reviewed these videos and the content included:
- definitions and examples of a wide range of unacceptable behaviour
 - how to submit reports of unacceptable behaviour
 - information about various referral pathways, depending on the type of unacceptable behaviour being reported
 - what managers must do upon receiving a report of unacceptable behaviour, including how to conduct fact-finding, and
 - how to submit reviews for unsatisfactory outcomes.
- 1.147. Each video directs viewers to Defence’s Complaints and Resolution intranet page for further information. The Complaints and Resolution intranet page contains references and links to other fact sheets regarding unacceptable behaviour and relevant chapters of Defence’s *Complaints and Resolution Manual*.
- 1.148. We consider Defence has taken steps to ensure material regarding making or handling reports of abuse is cross-referenced with internal policies and procedures and there is clear information about referral pathways for reportees and managers both on its intranet pages and in its policies and procedures.

Recommendation 6 – Create a central source of knowledge

We recommend Defence nominate a single area to take responsibility for reviewing and endorsing any Defence materials about making and handling reports of abuse, to ensure consistent and current messaging.

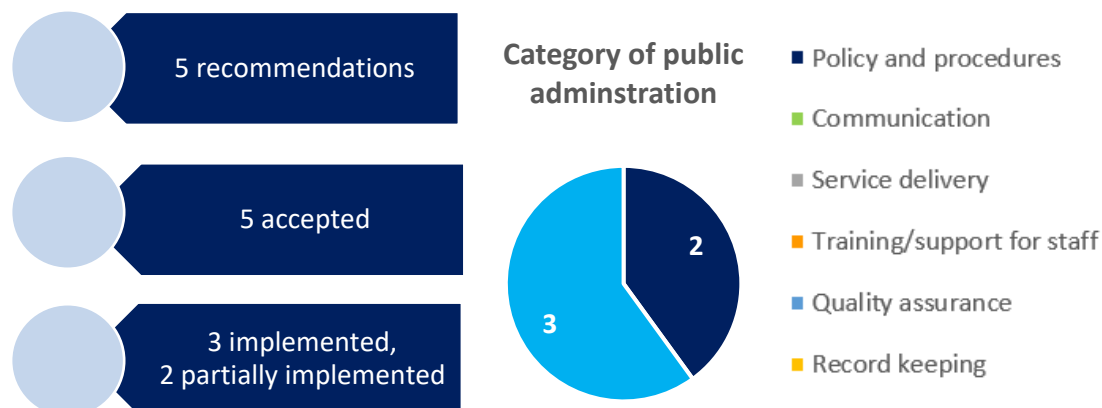
- 1.149. The Office considers Defence has implemented this recommendation. The Office reviewed an internal Defence minute which noted Defence’s Office of the Assistant Secretary Culture and People Development in the Defence People Group will hold responsibility for reviewing and endorsing any Defence materials about making and handling reports of abuse.



PART 8: DEPARTMENT OF DEFENCE

BEHAVIOUR TRAINING FOR DEFENCE RECRUITS

Figure 13 – Recommendations summary and categories of public administration



- 1.150. As indicated at paragraphs 1.130 to 1.132 above, in the Office’s role as the Defence Force Ombudsman, we receive, assess, and respond to reports of serious abuse and we also may inquire into the effectiveness and appropriateness of Defence’s procedures in relation to making and responding to complaints of abuse.
- 1.151. In 2019, the Office began an inquiry into the training Defence provides to recruits about required behaviours for members of Defence, including behaviour considered unacceptable in the workplace.

Summary of recommendations

- 1.152. In July 2020, the Office published its report, [Inquiry into behaviour training for Defence recruits](#), making 5 recommendations, all of which Defence accepted.
- 1.153. We identified some areas for improvement. We found Defence’s overarching framework used by the recruit schools to administer recruit training was sound, however, the training that teaches recruits about required behaviours is not included in all parts of this framework. We also found Defence would benefit from further developing its capability to provide regular assurance that recruit training on required behaviour remains appropriately focused on the most significant risks as they develop.
- 1.154. Based on our analysis of Defence’s self-assessment and supporting documentation, the Office considers 3 recommendations implemented and 2 recommendations partially implemented.

Engagement with Defence

- 1.155. In December 2020, Defence provided the Office with a written update on its progress in implementing the recommendations made in the inquiry. In February 2021, the Office and Defence began discussing the steps Defence had taken to implement the recommendations.
- 1.156. Throughout 2021, the Office continued working with Defence to gain an understanding of the additional action it intended taking to implement all recommendations. As a result of this engagement, the Office determined Defence had implemented 3 recommendations prior to commencing follow up with Defence in preparation for this report.
- 1.157. On 28 July 2021, the Office requested Defence provide a self-assessment of its progress in implementing the 2 outstanding recommendations. In September and December 2021, Defence provided the Office with information about action it has taken or intends taking to implement the outstanding recommendations.

Recommendation 1 – Assessing instructors’ delivery of behaviour training

We recommend that each of the services amend their existing framework to ensure the delivery of all recruit training on required behaviours is subject to regular assessment, regardless of who delivers the training.

- 1.158. The Office considers each service has implemented this recommendation. The Office reviewed several updated policies, procedures and training instructions from each service. The updated documentation from each service outlines evaluation requirements for instructors delivering training on required behaviours. Specifically:
- The Navy now requires a Suitably Qualified Evaluating Officer to conduct instructor evaluations for Recruit School instructors within 6 months of their posting into the Recruit School, and then on a bi-annual basis.
 - The Army broadened the scope of lessons evaluated to include those about required behaviours and requires the supervisors of personnel delivering training to conduct instructor evaluations on behalf of Army.
 - The Air Force now requires the Chief Instructor to evaluate instructors delivering behavioural-based lessons on an annual basis.

Recommendation 2 – Evaluation of behaviour training developed by the recruit schools

We recommend that the services evaluate all recruit training developed by the recruit schools related to Defence’s required behaviours, to gain assurance that training effectively achieves the intended learning outcomes and addresses the risks associated with unacceptable behaviour. Evaluation should take place on a regular and ongoing basis.

- 1.159. The Office considers each service has implemented this recommendation. The Office reviewed evidence provided by each service that outline changes to the evaluation of behaviour training developed by their recruit schools. Specifically:

- The Navy Recruit School advised it reviewed its behavioural lessons and reviews would now occur every 12 months.
- The Army advised it evaluated its training, identified areas for improvement and provided assurance that evaluations will continue regularly.
- The Air Force Recruit School does not develop behaviour training, however, it advised course reviews were conducted and content was updated to better align with Defence values.

Recommendation 3 – Evaluation of behaviour training developed externally to the recruit schools

We recommend that Defence evaluates all training developed externally to the recruit schools that is related to Defence’s required behaviours, to gain assurance that training effectively achieves intended learning outcomes and addresses the risks associated with unacceptable behaviour. Evaluation should take place on a regular and ongoing basis.

Defence should evaluate the healthy relationships and sexual ethics training package as a priority.

- 1.160. The Office considers Defence has partially implemented this recommendation. Defence has taken steps towards implementing this recommendation by completing a review of the Healthy Relationships and Sexual Ethics training (HRSE) package and proposing a new package be developed for delivery by August 2022. Defence also committed to continued periodic evaluation of the HRSE package and advised the frequency and nature of these evaluations will be determined once the new HRSE package is delivered.
- 1.161. To consider this recommendation as implemented, the Office expects the new HRSE training package to be implemented. Defence would be expected to outline its plan to conduct regular and ongoing reviews of this training package to ensure it achieves the intended learning outcomes and addresses the risks associated with unacceptable behaviour.
- 1.162. We note the HRSE training package is the only training originally developed externally to the recruit schools. We expect any training packages developed externally in the future are also evaluated on a regular and ongoing basis.

Recommendation 4 – Analysis to support identification of risks and issues

We recommend that Defence conducts regular and ongoing analysis of unacceptable behaviour incidents across Defence. This information should be used to identify trends and risk, to inform evaluation and continuous improvement in recruit training on Defence’s required behaviours.

- 1.163. The Office considers Defence has partially implemented this recommendation. Defence has taken steps towards implementing this recommendation by developing a new case management system which will be the sole platform for reporting and managing unacceptable behaviour incidents across Defence. Defence advised the system will be launched at the end of 2023 and it is working

to identify an interim solution to ensure it can conduct regular and ongoing analysis of unacceptable behaviour incidents to identify trends and risks.

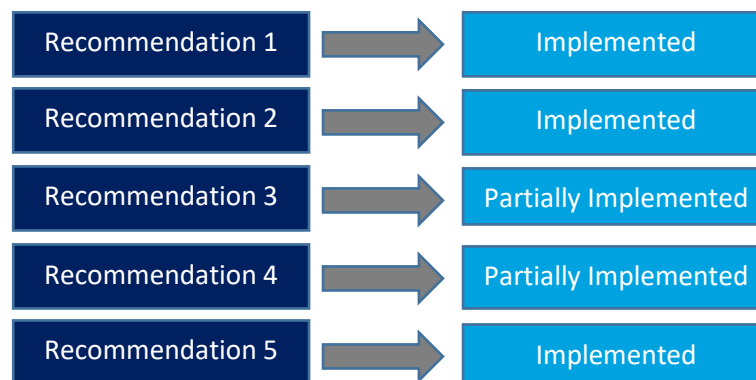
1.164. To consider this recommendation as implemented, we would expect:

- the new Case Management System to be operating, and
- the system to not only be used as a single platform for reporting and managing unacceptable behaviour incidents, but also that system data is used for the purpose of evaluation and continuous improvement of recruit training.

Recommendation 5 – Governance – Collaboration between recruit schools

We recommend that Defence develops a formal arrangement for ongoing collaboration between the recruit schools to share better practice in the design, delivery and evaluation of recruit training on Defence’s required behaviours. The department should lead the arrangement between the recruit schools.

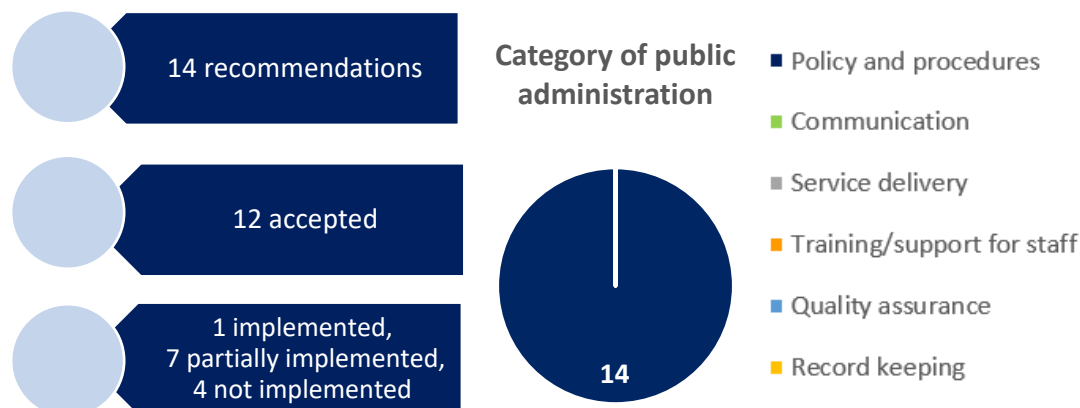
1.165. The Office considers Defence has implemented this recommendation. The Office reviewed Defence’s forward work plan which shows that collaboration between the recruit schools on recruit training is an ongoing agenda item at meetings between recruit schools. Collaboration includes sharing of better practice in the design, delivery and evaluation of training on required behaviours.



PART 9: NATIONAL DISABILITY INSURANCE AGENCY

ADMINISTRATION OF NDIS FUNDED ASSISTIVE TECHNOLOGY

Figure 14 – Recommendations summary and categories of public administration



1.166. The Office published its report [Administration of National Disability Insurance Scheme \(NDIS\) funded assistive technology](#) in August 2020. Assistive technology (AT) refers to any device or system that allows a person to perform tasks they otherwise could not or increases the ease and safety with which tasks can be performed. Access to assistive technology is essential to support people with disability to participate more fully, easily and safely in daily activities.

1.167. The Office’s investigation complemented the Joint Standing Committee on the NDIS’ inquiry into the provision of assistive technology under the NDIS. Our report focused on the National Disability Insurance Agency’s (NDIA) administration of requests for assistive technology and reflects concerns raised in complaints to us, with the most common issue being the time taken to process requests. Participants and their representatives told us of confusion about the process and frustration with communication from the NDIA around the time required to make a decision.

Summary of recommendations

1.168. We investigated whether the NDIA’s processes enable requests to be handled appropriately, timely and clear advice to be provided to participants about decision-making process and timeframes, and delays to be addressed. Our investigation identified the NDIA has undertaken significant work to improve its processes in these areas.

1.169. The Office made 14 recommendations aimed at assisting the NDIA to improve the participant experience for those who seek assistive technology. The recommendations focused on improvements to internal processes and guidance, decision-making processes for planning, public information and responsiveness.

- 1.170. The NDIA accepted 12 of our 14 recommendations. The NDIA did not accept recommendations 7 and 11, however, it provided advice about the steps it took to improve its plan amendment processes (recommendation 7) and acknowledged receipt of complex assistive technology requests (recommendation 11).
- 1.171. Based on our analysis of the NDIA's self-assessment and supporting documentation, the Office considers that 1 recommendation was implemented, 7 are partially implemented, and 4 have not been implemented.

Engagement with the NDIA

- 1.172. In November 2020, the Office requested an update from the NDIA on its implementation of our recommendations. On 23 December 2020, the NDIA provided the Office with expected timeframes for implementation of each recommendation. We note these below.
- 1.173. On 28 July 2021, the Office requested the NDIA provide a self-assessment of its progress implementing the recommendations with supporting documents. On 24 August 2021, the NDIA provided its response to our request for information.
- 1.174. The Office and the NDIA met on 22 October, 3 and 4 November 2021, to discuss the information provided and our initial findings. On 19 November 2021, the NDIA provided additional information to demonstrate its implementation.
- 1.175. The NDIA advised that some of the information it provided (for example, operational guidelines, standard operating procedures and IT system) could be superseded by the time this report is completed, as its work in implementing the recommendations is ongoing. This report sets out the Office's point-in-time assessment of progress made by the NDIA in implementing these recommendations, based on information the NDIA provided up to 19 November 2021. We did not consider information updated by the NDIA following that date. We acknowledge that the NDIA may have progressed further with implementing the recommendations by the time this report is completed.

Recommendation 1

The NDIA implement an internal end-to-end process for handling and assessing assistive technology requests. The process should:

- (a) be clearly documented in staff procedure(s) for example, standard operating procedures or other guidance documents.
- (b) be consistent with information the NDIA makes publicly available about assistive technology requests.
- (c) include a quality assurance step to monitor compliance with policies and identify any gaps in staff training.

1.176. The Office considers the NDIA has partially implemented this recommendation.

1.177. The NDIA published its AT guideline on its website, *Our Guideline – Assistive Technology*,³ in November 2020 and updated it in March 2021. The AT guideline provides information to the public about how the NDIA makes decisions including those relating to assistive technology in participant plans. The AT guideline is supported by a suite of Standard Operating Procedures (SOPs) to guide staff in their work.

1.178. The Office reviewed the AT guideline and SOPs. While they provide general guidance, they lack clear procedural steps to support NDIA staff and partners in handling assistive technology requests. The NDIA advised it has commenced updating its suite of operational guidelines (OGs) to streamline its approach to assistive technology requests. The Office will monitor its progress as part of our regular and ongoing engagement with the NDIA.

1.179. The Office reviewed the NDIA’s performance management and quality reviews framework and report. The Office is satisfied the NDIA has an internal process to identify emerging issues regarding the NDIA’s internal end-to-end assessments and plan review decisions. We understand this process is used for continuous improvement and informs training opportunities for staff.

1.180. To consider this recommendation as implemented, the Office would expect to see the AT guideline, SOPs or other internal guidance material detail the end-to-end process for handling assistive technology requests. In particular, the AT guideline and SOPs should include information that:

- clearly identifies assistive technology supports at pre-planning/planning meetings
- explains the assistive technology process to participants by providing clear procedural steps about:
 - when further information is required
 - when and how to request and supply assessments and quotes
 - assessment and quote time periods/expiry timelines

³ The NDIA updated its [Our Guideline – Assistive Technology](#) on 10 February 2022. This version has not been considered in the report.

- NDIA communications and updates
- the process for approving and declining an assistive technology request
- options for review and providing feedback.

1.181. The NDIA noted in its formal response to the draft report that it has taken further steps to implement this recommendation. The NDIA response is provided in the appendix to this report.

Recommendation 2

The NDIA implement a single national participant (or client) records management system that allows staff to store, manage and retrieve all information relating to individual participants; including information about current plans, approved supports, scheduled plan reviews and any contacts the participant has made with the agency.

Noting there are frequently long lead times for implementing IT solutions, we recommend that in the meantime, the NDIA:

- (a) establish and resource a central coordination process to efficiently identify and consolidate incoming communications received from various channels into a central client record location.
- (b) close and consolidate its regional email inboxes into a central inbox.

1.182. The Office considers the NDIA has partially implemented this recommendation.

1.183. The NDIA advised our Office it will introduce a new Customer Record Management (CRM) system by the first quarter of the 2022-23 financial year. The Office plans to monitor its progress as part of our regular and ongoing engagement with the NDIA.

1.184. The Office reviewed the NDIA's external website, which directs all enquiries via one central webpage. The Office did not see evidence from the NDIA of processes for identifying and consolidating communications from various channels.

1.185. The Office reviewed information provided by the NDIA indicating that one regional inbox was closed, and enquiries directed to a central inbox. The Office did not see evidence from the NDIA regarding the remaining regional inboxes that were closed.

1.186. To consider this recommendation as implemented, the Office would expect the NDIA to provide:

- evidence of a central client record location
- an explanation of the central coordination process to identify and consolidate incoming communications received from various channels, including:
 - the participant
 - provider portal uploads
 - Local Area Coordinator partner and planner email inboxes

- information on the NDIA's external website stating that the enquiries@ndis.gov.au email can be used for assistive technology and home modification (ATHM) communications
- a list of all NDIA ATHM regional inboxes, evidence that all the regional inboxes were closed, timeline of closure and evidence of consistent messaging in the closed mailboxes' automatic replies.

Recommendation 3

The NDIA ensure requests for assistive technology are not missed if staff are on leave or have left the NDIA by:

- (a) including a workload management function in any new participant records management system (see recommendation 2).
- (b) implementing a workload management process to proactively reallocate or reassign work in real time, depending on the availability and caseloads of staff.

- 1.187. The Office considers the NDIA has not implemented this recommendation.
- 1.188. The NDIA advised our Office the new CRM system build, due to be implemented by the first quarter of the 2022–23 financial year, will include a workload management function.
- 1.189. The Office reviewed information from the NDIA indicating it has implemented a workload management function in its current, existing CRM system. While this workload management function allows for re-allocating work, steps of the process require manual reassignments, so do not occur in real time.
- 1.190. The Office notes the NDIA's advice that the new CRM system build will include a workload management function without these limitations.
- 1.191. To consider this recommendation implemented, the Office would expect the NDIA to demonstrate its new CRM system is operational with the workload management feature functioning. This would enable reallocating and reassigning assistive technology workload in real time, ensuring no assistive technology work tasks are missed or remain unactioned.

Recommendation 4

To improve consistency and accuracy, the NDIA implement a fit-for-purpose knowledge management system to support staff to easily access guidance and procedures in a central location.

In the meantime, the NDIA should improve navigability of existing guidance documentation, for example by improving length, clarity and narrative coherence of available guidance and reducing links to separate documents and guidance.

- 1.192. The Office considers the NDIA has not implemented this recommendation. The NDIA advised our Office the new CRM, which will be implemented by the first quarter of the 2022–23 financial year, will include a separate work package for guidance materials. The new system is intended to include a built-in contextual knowledge management system and be available on each relevant work screen. The NDIA advised it has commenced updating its suite of operational guidelines (OGs) to streamline its approach to assistive technology requests. The Office plans to monitor its progress as part of our regular and ongoing engagement with the NDIA.
- 1.193. To consider this recommendation as implemented, the Office would expect to see evidence of a knowledge management system to support staff to easily access guidance and procedures in a central location. We acknowledge the NDIA’s advice that its OGs and SOPs will be aligned to the new CRM system; with a centralised location for staff to easily access the resources on the new CRM. We would need to see the new system in operation before we could assess this recommendation as implemented.

Recommendation 5

The NDIA, informed by the evaluation of the specialised services assessment panel pilot, implement a process to assist participants to identify assistive technology supports at pre-planning, to ensure their inclusion in plans at the earliest opportunity.

The NDIA should update staff guidance and procedures to reflect the new process and provide information about the process to participants, for example, in the participant booklet and/or on the website.

- 1.194. The Office considers the NDIA has partially implemented this recommendation. The Office reviewed the NDIA’s [‘Planning Booklet 2’](#) and notes it asks a participant what aids or equipment they use daily. The booklet also asks the participant to consider bringing a list of assistive technology to the planning meeting. However, it does not include information or guidance for participants to identify assistive technology supports or explain how AT requests are assessed.
- 1.195. The Office notes the AT guideline provides information about how the NDIA makes decisions regarding assistive technology in participant plans and that assistive technology can be discussed at a planning meeting. However, there is little

guidance for staff regarding consideration of assistive technology at the pre-planning stage.

- 1.196. The NDIA advised it is moving away from booklets and fact sheets to its OGs being the single source of information about the NDIS for staff and participants. The NDIA further advised it has commenced updating its suite of OGs to streamline its approach to assistive technology requests. The Office plans to monitor its progress as part of our regular and ongoing engagement with the NDIA.
- 1.197. To consider this recommendation as implemented, the Office would expect the NDIA to demonstrate that its OGs and SOPs clearly identify assistive technology supports that are available to participants at pre-planning/planning meetings and explain the assistive technology process to participants by providing clear procedural steps.
- 1.198. The NDIA noted in its formal response to the draft report that it has taken further steps to implement this recommendation. The NDIA response is provided in the appendix to this report.

Recommendation 6

To help participants gather and prepare information for their planning meeting, the NDIA should provide clear information about the assessment and/or quote requirements for commonly requested assistive technology supports. This information could be included in the participant booklets or on the assistive technology page for participants on the NDIA's website, with a reference to the website in the participant booklet.

- 1.199. The Office considers the NDIA has partially implemented this recommendation. The Office reviewed the NDIA's AT guideline and SOPs. These documents contain general information about the planning process but lack information about how or when to obtain an assessment or quote, where to submit an assessment or quote and what information an assessment or quote should contain.
- 1.200. As discussed in recommendation 5, we note the NDIA has commenced updating the suite of OGs and we will monitor its progress.
- 1.201. To consider this recommendation implemented, the Office would expect the NDIA to demonstrate that its OGs and SOPs include information listed in our assessment of recommendation 1 above.
- 1.202. The NDIA noted in its formal response to the draft report that it has taken further steps to implement this recommendation. The NDIA response is provided in the appendix to this report.

Recommendation 7

The NDIA amend its assistive technology and plan approval processes, to include a step at the conclusion of the planning meeting to invite participants to provide any outstanding/additional documents to support their assistive technology request, within a specified timeframe, prior to approving the plan.

1.203. The NDIA did not accept this recommendation.

Recommendation 8

The NDIA should explain to participants the process for having assistive technology included in their plan, either at the planning meeting or at plan implementation, if a participant is unable to provide the information required to support an assistive technology request before the plan is approved.

This requirement should be supported by:

- (a) clear instructions in the NDIA's guidance to staff about the need to provide participants with information about the assistive technology approval process.
- (b) written information for participants about the assistive technology process, e.g. in the form of a fact sheet, update to the participant booklet and/or on the website.

1.204. The Office considers the NDIA has partially implemented this recommendation.

1.205. The Office notes the AT guideline provides information about how the NDIA makes decisions regarding assistive technology in participant plans and states that assistive technology can be discussed at a planning meeting. There is little guidance for staff regarding consideration of assistive technology at the planning meeting or plan implementation stage.

1.206. As discussed in recommendation 5, the NDIA's 'Planning Booklet 2' does not include information or guidance for participants to identify assistive technology supports or explain how AT requests are assessed. We also note the NDIA has commenced updating the suite of OGs and we will monitor its progress.

1.207. To consider these recommendations as implemented, the Office would expect the NDIA to demonstrate that its OGs and SOPs include information listed in our assessment of recommendation 1 above.

1.208. The NDIA noted in its formal response to the draft report that it has taken further steps to implement this recommendation. The NDIA response is provided in the appendix to this report.

Recommendation 9

The NDIA provide information to support staff to explain to participants:

- (a) where a plan is in place, a subsequent decision not to include requested supports in the plan is a reviewable decision.
- (b) the steps to take if a participant disagrees with the decision, including advising participants of their review rights and sending a written notice confirming the decision and their review rights.

1.209. The Office considers the NDIA has not implemented this recommendation.

- 1.210. The Office reviewed the 'AT Supports Requested After Plan Approval SOP', dated 23 December 2020. The SOP provides steps for officers to undertake a plan review, where the participant's approved plan does not have funding available for assistive technology. However, it has not been updated to reference the NDIA review guideline, 'Our Guideline – Reviewing our Decisions', dated 3 September 2021. There is no procedural step for the officer to explain to the participant their review rights or review pathway.
- 1.211. The Office reviewed the NDIA review guideline, 'Our Guideline – Reviewing Our Decisions', dated 3 September 2021. The guideline provides information about what to do if a person does not agree with an NDIA decision and provides information about the different types of internal and external review. However, it does not explain to participants that, when a plan is in place, a subsequent decision not to include requested supports in the plan is a reviewable decision.
- 1.212. To consider this recommendation implemented, the Office would expect the NDIA to demonstrate it has included clear information in its OGs and SOPs to:
- explain that when a plan is in place, a subsequent decision not to include requested supports in the plan is a reviewable decision. It would also be useful to set out how this relates to decisions not to include assistive technology requests
 - explain the steps to take if a participant disagrees with the decision not to include assistive technology in participant plans
 - provide written notice confirming the decision and review rights pertaining to decisions not to include assistive technology requests.
- 1.213. The NDIA noted in its formal response to the draft report that it has taken further steps to implement this recommendation. The NDIA response is provided in the appendix to this report.

Recommendation 10

The NDIA publish its service standards for responding to assistive technology requests on its website.

- 1.214. The Office considers the NDIA has implemented this recommendation. The Office notes the published AT guideline includes service standards for responding to assistive technology requests.

Recommendation 11

The NDIA should amend its assistive technology processes, to require staff to acknowledge receipt of complex assistive technology requests within 10 working days. The acknowledgement should let the participant know whether any further information is required.

1.215. The NDIA did not accept this recommendation.

Recommendation 12

The NDIA develop guidance for complaint handling and frontline staff to respond to assistive technology enquiries by:

- (a) providing participants with the status and timeframe of a request.
- (b) escalating the participant's request if it meets the circumstances outlined in the NDIA's internal prioritisation matrix for triaging complaints.

1.216. The Office considers the NDIA has partially implemented this recommendation.

1.217. The NDIA advised that the new CRM system will capture all case enquiries to be consolidated into a single case. In the interim, the Office reviewed the NDIA's instructions on locating quotes and checking progress within the existing CRM business system, under 'provider quotations and interactions'. NDIA staff are required to manually check both CRM sections for approval and decline interactions from various delegates and teams. It appears that information could be overlooked when manually reviewing a participant's file. The NDIA advised that its 'Escalation Prioritisation Matrix' is used by complaint handling staff when triaging and/or resolving all complaints, including assistive technology request complaints.

1.218. We reviewed the NDIA's 'Escalation Prioritisation Matrix', which categorises risk as low, medium, high and extreme, with corresponding timeframes for responses and resolutions. We also reviewed the training materials provided to complaints staff but note it does not reference the Escalation Prioritisation Matrix or provide steps on when or how to escalate assistive technology request complaints.

1.219. To consider this recommendation implemented, the Office would expect the NDIA to demonstrate that its OGs and SOPs clearly outline:

- the actions required for staff to escalate a request from participants with open reviews who also have outstanding ATHM requests, and where this is linked to the escalation assessment matrix
- instructions for staff in various channels and teams (delegates/partners/enquiries inbox) on how to update participants
- information that can be shared with the participant regarding the progress or timeline of the assistive technology request. For example:
 - delays and issues causing delays
 - further information required
 - staff/region/team assigned to the request
 - whether the participant's plan will need a review to action the request
 - when the NDIA will contact the participant to progress the request or provide timeframes for action.

- 1.220. The NDIA noted in its formal response to the draft report that it has taken further steps to implement this recommendation. The NDIA response is provided in the appendix to this report.

Recommendation 13

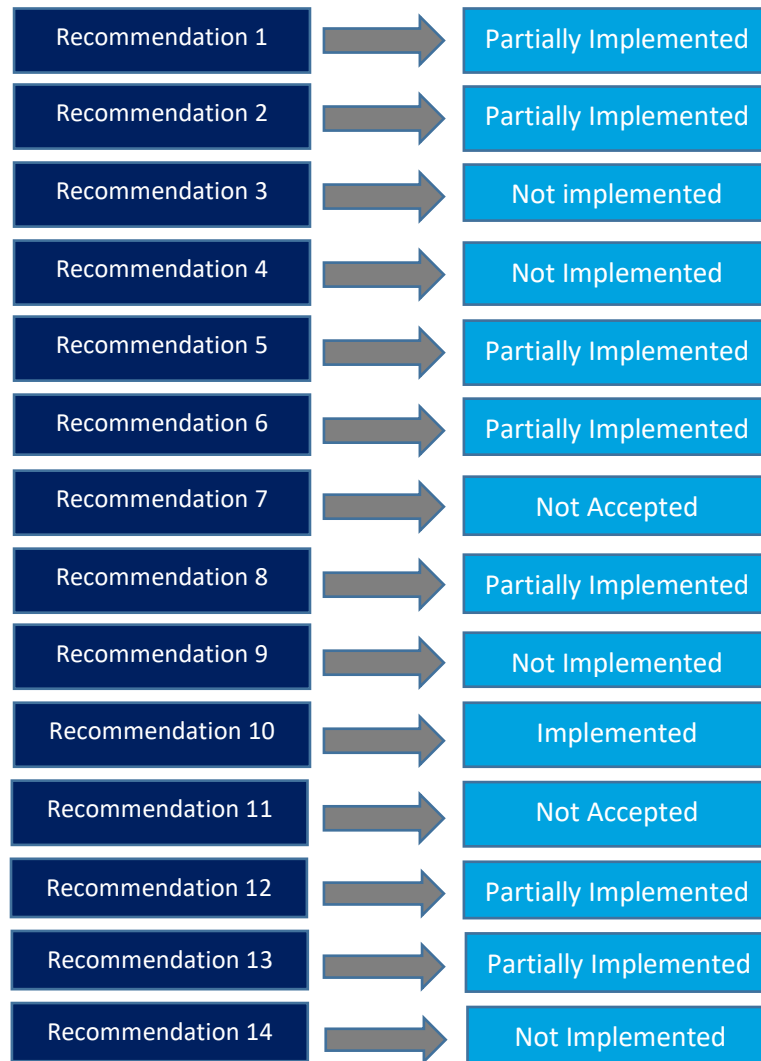
The NDIA should implement an ongoing and regular process to analyse assistive technology complaints and use the data collected to inform improvements to its administrative processes and information provided to participants about assistive technology.

- 1.221. The Office considers the NDIA has partially implemented this recommendation. The NDIA advised our Office that ATHM complaints data is shared each month with the ATHM network, since June 2020. The NDIA advised that further analysis and reports will be provided once completed in the third quarter of the 2021-22 financial year.
- 1.222. We reviewed internal correspondence about arranging meetings to discuss ATHM complaints data but found no evidence of the NDIA analysing the data. The Office is yet to receive the further analysis and reports for Quarter 3 and Quarter 4 of the 2020-21 financial year the NDIA advised it would provide.
- 1.223. To consider this recommendation implemented, the Office would expect to see evidence of the NDIA's ATHM complaints data analysis and findings and how this data informed improvements to NDIA's administrative (internal) processes, the outcomes, and information provided to participants about assistive technology (such as an external process of communication).
- 1.224. The NDIA noted in its formal response to the draft report that it has taken further steps to implement this recommendation. The NDIA response is provided in the appendix to this report.

Recommendation 14

The NDIA measure the average time it takes to decide an assistive technology request in order to calculate its capacity to meet anticipated demand for assistive technology within its service standards.

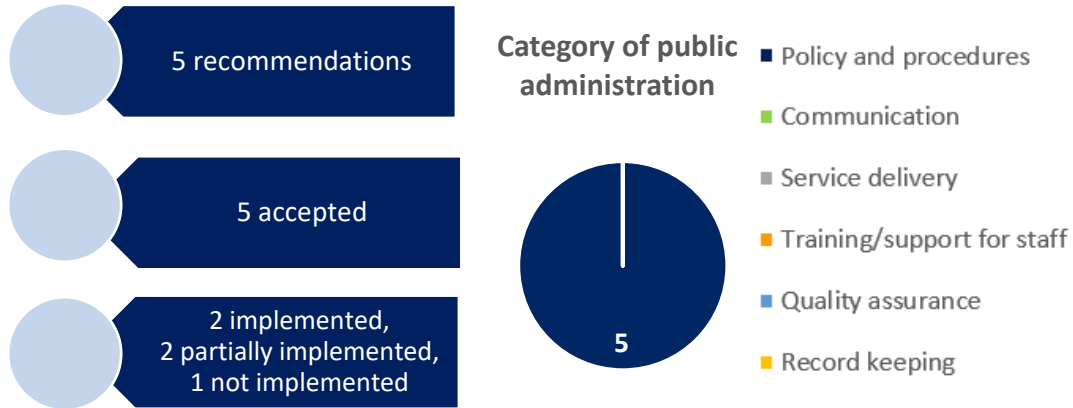
- 1.225. The Office considers the NDIA has not implemented this recommendation. The Office reviewed the NDIA’s website, which outlines timeframes for key NDIA processes as per the Participant Service Charter. However, the information lacks specific reference to assistive technology requests, processes, or timeframes. The NDIA did not provide evidence of measuring the average time taken to decide an assistive technology request.
- 1.226. To consider this recommendation as implemented, the Office would expect to see evidence of the NDIA’s analysis of assistive technology processing times to calculate the NDIA’s capacity to meet anticipated demand for assistive technology within its service standards.



PART 10: NATIONAL DISABILITY INSURANCE AGENCY

ACTIONS OF THE NDIA IN RELATION TO MR C

Figure 15 – Recommendations summary and categories of public administration



- 1.227. The Office published its report, [Investigation into the actions of the National Disability Insurance Agency \(NDIA\) in relation to Mr C](#), in February 2020. The investigation arose from a specific complaint in relation to Mr C but highlighted serious issues for current and prospective participants about access to NDIS supports while incarcerated and transitioning from prison.
- 1.228. The investigation was in response to a complaint Ms D lodged about the NDIA on behalf of Mr C. Mr C experienced several comorbid mental illnesses. At the time of his initial application to access the NDIS, Mr C was serving a prison sentence. Ms D contacted the NDIA in the months leading up to his parole date to ensure Mr C had supports in place when he was released from prison.
- 1.229. We found Mr C did not have any NDIS supports in place at the date he was granted parole, primarily because of the NDIA's handling of these requests to access the NDIS. Less than 3 months after his release, Mr C breached a condition of his release, and his parole was revoked. The NDIS planning process was not completed until after his parole was revoked and he returned to prison.
- 1.230. Our investigation identified systemic issues with:
- the NDIA's handling of NDIS access requests made by persons in custody
 - gaps in staff knowledge and operating guidelines for identifying prospective NDIS participants in custody whose circumstances warrant urgent prioritisation, and
 - the provision of incorrect advice in response to requests for access to the NDIS by persons in custody.

Summary of recommendations

- 1.231. The then Commonwealth Ombudsman made 5 recommendations aimed at improving the NDIA's handling of priority access requests for persons in custody, all of which the NDIA accepted.
- 1.232. The Office considers 2 recommendations implemented, 2 recommendations partially implemented, and one recommendation as not implemented, based on our analysis of the NDIA's self-assessment and supporting documentation.

Engagement with the NDIA

- 1.233. In November 2020, the Office requested an update from the NDIA on its implementation of the recommendations made in the report. On 23 December 2020, the NDIA provided our Office with timeframes for its expected implementation of the recommendations.
- 1.234. On 28 July 2021, the then Commonwealth Ombudsman wrote to the Chief Executive Officer of the NDIA requesting information and supporting documents to demonstrate the NDIA's implementation of the recommendations. The NDIA responded to our Office in August and November 2021.

Recommendation 1

We recommend that the NDIA expand on Operational Guideline 4.11 to include the circumstances already outlined in its internal policy documents when a prospective participant should receive priority processing of their access request.

- 1.235. The Office considers the NDIA has not implemented this recommendation.
- 1.236. The NDIA advised the Office that Operational Guideline 4.11 will be replaced by a new Operational Guideline titled 'Applying' in quarter 3 of the 2021–22 financial year as part of its Operational Guidelines Refresh Project. The NDIA advised the new guideline will provide more information about its prioritisation schedule once it is developed and implemented.
- 1.237. To assess this recommendation as implemented, the Office would expect the NDIA to publish the new guideline, including the prioritisation schedule, so a prospective participant can determine whether they fall within the priority access category and learn about relevant timeframes.
- 1.238. In the interim, and to avoid confusion for a prospective participant, the Office suggests the NDIA update Operational Guideline 4.11 on its website to include the complete list of circumstances for prioritisation as contained in the NDIS' prioritisation schedule on its website.
- 1.239. The NDIA noted in its formal response to the draft report that it has taken further steps to implement this recommendation. The NDIA response is provided in the appendix to this report.

Recommendation 2

We recommend that the NDIA encourage prospective participants to provide information relevant to prioritising their access request on its Access Request Form and during the Verbal Access Request process.

- 1.240. The Office considers the NDIA has partially implemented this recommendation.
- 1.241. The NDIA advised the Office it has updated the Access Request Form to include a question which helps identify whether the prospective participant is homeless or living in an inpatient facility or correctional centre. The NDIA was unable to demonstrate the updated Access Request Form covered the remaining circumstances for priority access listed in the NDIS' prioritisation schedule:
- child younger than 7 years with a hearing impairment identified as Australian Hearing or EC Partner Priority, or 'newly diagnosed'.
 - child identified as having a developmental delay and is turning 6 years old within 30 days of a valid access request.
 - immediate risk to self, others, community or agency where appropriate disability or informal supports are not in place.
 - unexpected, significant deterioration of disability-related functional capacity where appropriate disability or informal supports are not in place.
 - rapid deterioration in functional capacity of a person with one of the following disabilities:
 - Amyotrophic Lateral Sclerosis
 - Brain cancer
 - Motor Neurone Disease
 - Progressive Bulbar Palsy
 - Primary Lateral Sclerosis, and
 - Progressive Muscular Atrophy.
 - imminent risk (within 1–14 days) of breakdown of caring arrangements, including informal supports, due to death, serious illness/injury of informal supports, or significant and unexpected deterioration of disability-related functional capacity.
 - appropriate disability supports are not in place and are re-entering the community after a long-term residence or hospital stay (specific release date not required):
 - A young person living in residential aged care
 - A person being discharged from an inpatient mental health facility.
- 1.242. The NDIA subsequently advised our Office it plans to update the Access Request Form in July 2022 once it implements a new CRM system. The NDIA informed us the Verbal Access Request script (which sets out procedural information for NDIA staff to discuss with callers enquiring about access to the NDIS) will be updated at the same time.

- 1.243. To consider this recommendation as implemented, the Office would expect the NDIA to publish the updated Access Request Form on its website, including the prioritisation schedule, so a prospective participant can be prompted to provide this information for priority consideration.

Recommendation 3

We recommend that the NDIA update its training materials to:

- a) include learning activities to assist new staff in the National Access Team to identify situations which warrant prioritisation of an access request under Operational Guideline 4.11
- b) include content and a learning activity about the withdrawal of an access request under s 26(3) of the *National Disability Insurance Scheme Act 2013* (Cth) (the NDIS Act).

- 1.244. The Office considers the NDIA has implemented this recommendation.
- 1.245. The Office reviewed the NDIA's Access Induction Training materials, which discuss priority access requests, the prioritisation schedule and requests staff to identify reasons for priority access. The Office notes the NDIA revised its Learner Workbook Modules to include content and a learning activity about the withdrawal of an access request under s 26(3) of the NDIS Act.

Recommendation 4

We recommend that the NDIA update the 'access' section of the Practice Guide – Participants with Justice Interface to:

- a) highlight that prospective participants who have lodged an access request and who are nearing their release date from custody may be more likely to require prioritisation
- b) suggest that staff refer to Operational Guideline 4.11 when considering access requests from incarcerated prospective participants.

- 1.246. The Office considers the NDIA has partially implemented this recommendation.
- 1.247. The NDIA advised that Operational Guideline 4.11 will be replaced by a new Operational Guideline titled 'Applying' in quarter 3 of the 2021–22 financial year.
- 1.248. To assess this recommendation as implemented, the Office would expect the NDIA to demonstrate the recommended changes made in recommendation 1 above.

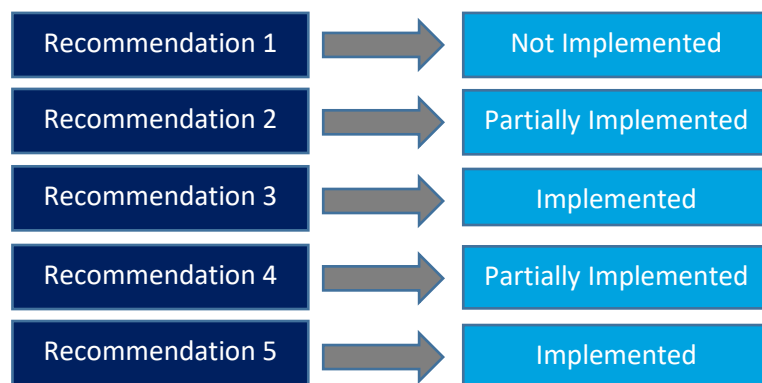
Recommendation 5

The NDIA make changes to its Quality Control Audit process to:

- a) include a check that an access request was appropriately prioritised in accordance with the Work Practice—Access Overview and Operational Guideline 4.11.
- b) systematically aggregate and report on data, to be considered by the agency’s leadership to identify areas of risk in the access decision-making process.

1.249. The Office considers the NDIA has implemented this recommendation. The Office reviewed the NDIA’s Access Post Decision Quality Audit Guide which now includes a check of whether an eligible request for priority decision was actioned in accordance with Operational Guideline 4.11.

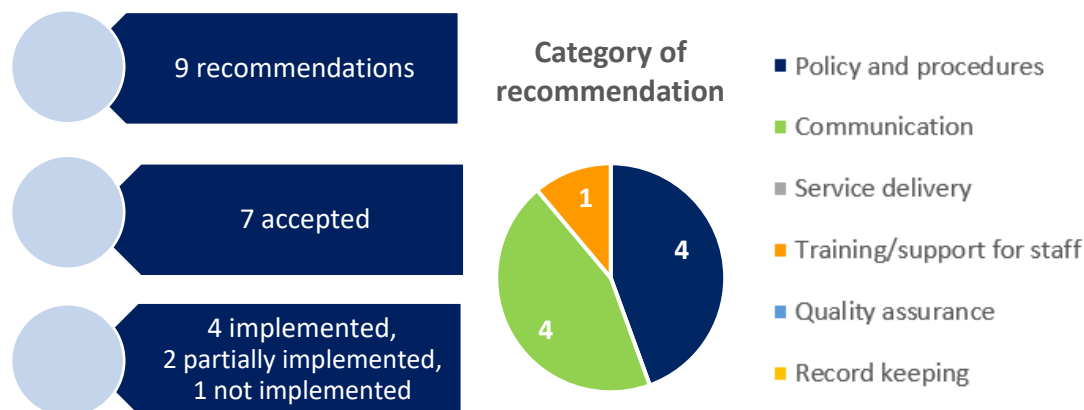
1.250. The Office reviewed the NDIA’s quarter 3 and 4, 2020–21 financial year Line Audit reports. These include the findings for post-decision Access and Eligibility Reassessment quality audits conducted on decisions made in the respective quarters. The Office understands that Line Audit Reports are produced by the NDIA’s National Access and Review Branch and are the NDIA’s first line of defence against identified risks. The Line Audit Reports contain data about findings and themes for the NDIA’s leadership to identify areas of risk in the access decision-making process. The NDIA added a question in its quarterly Line Audit Reports which asks whether the correct process was followed for a priority access request.



PART 11: SERVICES AUSTRALIA

SERVICES AUSTRALIA’S INCOME COMPLIANCE PROGRAM

Figure 16 – Recommendations summary and categories of public administration



- 1.251. On 6 April 2021, the Office released its report [Services Australia’s Income Compliance Program: a report about Services Australia’s implementation of changes to the Program in 2019 and 2020](#). It was the Office’s third investigation into the Income Compliance (IC) Program. The investigation examined Services Australia’s administration of the IC Program since 2019, including actions to identify and remediate debts impacted by averaging of Australian Taxation Office (ATO) income information.
- 1.252. We commenced the investigation in response to the Australian Government’s 19 November 2019 announcement that Services Australia would no longer use averaged ATO income information without other proof points to raise debts under the IC Program. Our investigation was also informed by ongoing complaints from individuals about:
- debts raised under the program after the 19 November 2019 announcement, and
 - the refund process due to the second Australian Government announcement on 29 May 2020 that debts based wholly or partially on income averaging repayments would be refunded and debts reduced to zero.

Summary of recommendations

- 1.253. Our investigation focused on Services Australia’s implementation of changes to the IC Program, and we considered the impact these changes had on individuals. The Office made 9 recommendations, of which Services Australia accepted 7. The recommendations focused on communication, improvements to staff training and internal policies, and considering the refund of debts raised based on income averaging where the Administrative Appeals Tribunal (AAT) had subsequently reviewed and affirmed the debts.

- 1.254. In addition to the 9 recommendations, our investigation report included 7 comments to Services Australia about matters that no longer required remedial action due to the passage of time. These comments sit alongside our formal recommendations, but this report does not include formal review of action taken by Services Australia in response to these comments.
- 1.255. This report focused solely on Services Australia’s implementation of the 7 accepted recommendations. Based on our analysis of Services Australia’s self-assessment and supporting documentation, the Office considers 4 recommendations implemented, 2 recommendations partially implemented, and one recommendation not implemented.

Engagement with Services Australia

- 1.256. On 27 July 2021, the then Commonwealth Ombudsman wrote to Services Australia asking for an update on the implementation status of the recommendations from this investigation report.
- 1.257. On 24 September 2021, Services Australia gave our Office information about the actions taken to implement the recommendations. On 3 December 2021, the Office met with Services Australia before it provided additional information to the Office on 10 February 2022.
- 1.258. Given the nature of the recommendations in the April 2021 investigation report, and the relatively brief period between publication and the commencement of this report, we did not expect Services Australia to have implemented all recommendations.
- 1.259. We also acknowledge Services Australia was heavily focused on delivering its COVID-19 response to the Australian community during the period since publication of the investigation report.

Recommendation 1

As soon as it has completed identifying all individuals who are and are not eligible for a refund, and without duplicating communication that may be required as a result of legal proceedings, Services Australia should communicate directly with individuals who have had debts raised under the IC Program and who have not been assessed as eligible for a refund or removal of their debt. That communication should be in writing and include clear advice about the individuals’ review rights.

- 1.260. The Office considers Services Australia has partially implemented this recommendation as it has written to one of the 2 cohorts we recommended.
- 1.261. In October and November 2021, Services Australia wrote to all individuals who were part of a class action to tell them whether they were eligible for a settlement payment. Individuals who were not eligible for a settlement payment were also given information about their review rights and how to request a review.
- 1.262. There is a remaining cohort of individuals who opted out of the class action and who were not eligible for a refund or zeroing of their debt. Services Australia advised us it would write to this cohort in early 2022. In December 2021, Services

Australia provided the Office with the letter it intended to send to the second cohort. The Office provided feedback on both the design and wording of the letter to ensure Services Australia's advice about an individuals' review rights was clear. Services Australia did not implement any of our feedback.

- 1.263. To consider this recommendation implemented, the Office would expect Services Australia to write to the remaining individuals – those who are both not eligible for a refund and had opted out of the class action – and provide them with clear information about their review rights.
- 1.264. Services Australia noted in its formal response to the draft report that it has taken further steps to implement this recommendation. The Services Australia response is provided in the appendix to this report.

Recommendation 2

If it is anticipated that Services Australia may re-raise debts that have been refunded, it should, at the earliest opportunity, publish general information on its website to enable individuals to understand that the Australian Government's decision to refund eligible debts does not preclude Services Australia from raising another debt for the same debt period without relying solely on income averaged information.

- 1.265. Services Australia noted this recommendation.
- 1.266. Services Australia detailed in its formal response to the draft report the action it has taken in relation to this recommendation.

Recommendation 3

In circumstances where Services Australia decides to revisit and potentially re-raise refunded debts, it should, at the earliest opportunity, write to affected individuals and provide information to enable them to understand the impact of its decision. This information should include:

- 3a) the basis on which any decision to revisit and re-raise debts will be made
- 3b) an assurance that income averaging alone will not be used to re-raise debts
- 3c) information about individuals' review rights.

Alternatively, if Services Australia does not intend to revisit and potentially re-raise debts which have been the subject of refunds, it should confirm this publicly at the earliest opportunity.

- 1.267. Services Australia noted this recommendation.

Recommendation 4

Services Australia should continue to identify options to resolve the issue of individuals' debts having been affirmed by the AAT with income averaging in the final decision, ideally with a view to refunding those debts which would otherwise have been eligible for refund as soon as possible.

- 1.268. The Office considers Services Australia has implemented this recommendation. Services Australia advised it is in the process of refunding individuals who previously had their income compliance debt affirmed by the AAT.
- 1.269. As of 31 December 2021, 98 per cent of these debts were refunded. For the remaining debts, Services Australia is awaiting receipt of the individuals' bank account details to process the refund. As most debts are refunded, we consider this recommendation implemented.
- 1.270. Services Australia noted in its formal response to the draft report that it has taken further steps to implement this recommendation. The Services Australia response is provided in the appendix to this report.

Recommendation 5

Services Australia should review its guidance to staff, including all relevant policies, procedures, and training materials, to ensure it aligns with Services Australia's stated position that where an individual requests a formal or ARO review, their request is referred directly to an ARO.

- 1.271. The Office considers Services Australia has implemented this recommendation. Services Australia advised the Office that from 15 May 2021 it implemented a revised internal review process for social welfare payments and provided evidence of the guidance given to staff on implementing this change. Services Australia now gives individuals clearly defined options to ask for an explanation of a decision or progress directly to a formal review.
- 1.272. Services Australia staff have access to guidance and training on how to ensure a formal review can occur independent of an explanation of decision provided by a Subject Matter Expert (SME). Services Australia's website advises of this right, and its computer system now allows this to occur when requested.

Recommendation 6

In circumstances where Services Australia is unable to obtain income information from the individual or third parties for the purposes of an SME review, it should finalise the review based on evidence other than averaged ATO information on hand and provide a decision to the individual.

- 1.273. The Office considers Services Australia has implemented this recommendation. On 29 May 2020, the then Minister for Government Services announced that Services Australia would refund all repayments made on debts based wholly or partially on income averaging. This included any debts where a SME review of the decision

was outstanding. From July 2020, Services Australia progressively refunded any repayments or reduced debts to zero.

- 1.274. Services Australia later contacted individuals with outstanding SME reviews of decisions where a debt was originally raised using averaged income information and advised them the SME review was closed. Consequently, all SME reviews of decisions that contained averaged income information are finalised and there are no outstanding SME reviews awaiting further information.

Recommendation 7

Services Australia should only rely on 'net to gross converted income information' from bank statements in income compliance activity, in the absence of other proof points, with express confirmation from individuals that the grossed-up amount accurately represents their fortnightly earnings for the relevant period.

- 1.275. The Office considers Services Australia has partially implemented this recommendation. Our analysis indicates Services Australia has implemented a considerable portion of this recommendation. However, the Office requires further assurance to consider the recommendation fully implemented.
- 1.276. Services Australia updated its internal guidance for staff to provide more clarity about the components to consider when relying on bank account information. We note Services Australia staff must discuss these components with a customer when relying on bank statements to ensure the customer understands the information provided. This discussion, and the customer's answers to questions, must be documented by staff in full on the customer's record. Services Australia advised the Office it then escalates individual cases to the relevant policy team for guidance after this discussion occurs.
- 1.277. Services Australia advised it introduced a pre-adverse decision process for circumstances where the preliminary calculations indicate the assessment will result in an overpayment, and it has not been able to contact the customer to discuss the adverse decision. This process was designed to allow the individual an early right of reply prior to Services Australia formally deciding to raise a debt.
- 1.278. We recognise that Services Australia has largely implemented this recommendation and welcome these changes. However, for the pre-adverse decision process, it is not entirely clear to the Office how net to gross income is calculated, after the information relevant to the preliminary calculations is provided to the individual for them to confirm. The Office will continue to engage with Services Australia on any remaining ambiguity around the process, to assist it to ensure the effectiveness of implementation of this recommendation.
- 1.279. Services Australia advised it has developed guidance for staff that includes an escalation process for cases where an individual does not know the answer to some of the questions. However, the Office will continue to engage on this issue to better understand how Services Australia will progress escalated cases, and cases involving individuals without the financial literacy skills, to accurately confirm the information necessary for assessments. Such further engagement will require Services Australia to assure the Office that it will:

- provide the individual with detailed information about how the grossed-up amount was calculated, and opportunities for the individual to explicitly confirm its accuracy
- have a process to manage cases where there is only partial information provided/known by the individual
- assist individuals with low financial literacy to fully understand the discussion.

1.280. Services Australia noted in its formal response to the draft report that it has taken further steps to implement this recommendation. The Services Australia response is provided in the appendix to this report.

Recommendation 8

In circumstances where Services Australia continues an individual's income compliance in-flight review and where the individual had previously been contacted about an income discrepancy, Services Australia should include in its written communication a correction to any information provided in the initial correspondence that is no longer accurate.

At a minimum, the correspondence should note that Services Australia made changes to the IC Program in November 2019, and that it will no longer raise debts relying solely on estimating the person's income by 'averaging' ATO income information over multiple fortnights.

- 1.281. The Office considers Services Australia has not implemented this recommendation.
- 1.282. Services Australia uses the term 'income compliance review' to refer to activity by its compliance staff to review discrepancies between income reported to Services Australia and income information obtained from the ATO to determine if a debt might exist.⁴
- 1.283. An 'in-flight' income compliance review is an income compliance review Services Australia has initiated but not yet decided. This may include where Services Australia has sent a discrepancy notice but not received a response, or where a person has engaged with Services Australia through its online portal but not finished updating and confirming their income information.
- 1.284. At the time of our investigation, Services Australia advised the Office it was finalising in-flight income compliance reviews following the Government's 19 November 2019 announcement, without relying on averaged ATO income information in the process.
- 1.285. As noted in our investigation report, notwithstanding the 19 November 2019 announcement, in-flight reviews are already impacted, albeit indirectly, by the practice of income averaging – for example, individuals with in-flight reviews were already warned that if they did not check and update their income information,

⁴ An 'in-flight review' is a separate and distinct process from an 'internal review' (through which a person can seek a fresh look at a Services Australia decision with which they disagree).

Services Australia would or could use (and average) income information from the ATO.

- 1.286. This recommendation specifically addressed our concerns that any engagement from individuals may therefore have been, or continue to be, influenced by these kinds of previous statements by Services Australia that income averaging may be used to raise a debt.
- 1.287. Services Australia advised the Office it is consulting with the Department of Social Services to 'determine the policy approach for future income compliance activities, including in-flight reviews' and no decision has been made to systematically reinstate in-flight reviews. It stated that, should a decision be made, it will take action to correct any information in the initial correspondence.
- 1.288. Services Australia advised that for individuals who contact it to have their in-flight review finalised, it will advise individuals that it no longer raises debts relying solely on averaged ATO income information. The Office considers this information relevant to all individuals with in-flight reviews and it is open to Services Australia to provide this information in correspondence to all individuals, not just those who proactively contact Services Australia.
- 1.289. The Office notes the action Services Australia is taking to reach a decision about unresolved in-flight reviews and its advice to individuals who proactively contact Services Australia about their in-flight review. Services Australia explained there has been no decision whether to continue an individual's in-flight review, Services Australia has not yet had an opportunity to write to affected individuals and cannot do so until a decision is made about the future of the IC Program.
- 1.290. We acknowledge our recommendation was predicated on a decision being made on whether to continue the IC Program in some capacity. However, given almost 3 years has passed since the 19 November 2019 announcement, we consider this an unreasonable delay and are concerned there has been no formal or individual communication from Services Australia about the in-flight reviews.
- 1.291. A significant number of individuals had in-flight reviews at the time of the 19 November 2019 announcement. Since then, individuals with open in-flight reviews have not received any correspondence about if or when the IC Program may resume, whether a debt may be raised against them, and if so how the debt would be calculated. It is open to Services Australia to finalise the in-flight reviews now and re-open them if a Government decision is made or write to individuals to explain the status of their in-flight review. To assess this recommendation as implemented, we would expect Services Australia to write to affected individuals to:
 - correct any information provided in the initial correspondence to the person that is no longer accurate
 - note that Services Australia made changes to the Income Compliance Program in November 2019, and it will no longer raise debts relying solely on estimating the person's income by 'averaging' ATO income information over multiple fortnights.

- 1.292. Services Australia noted in its formal response to the draft report that it has taken further steps to implement this recommendation. The Services Australia response is provided in the appendix to this report.

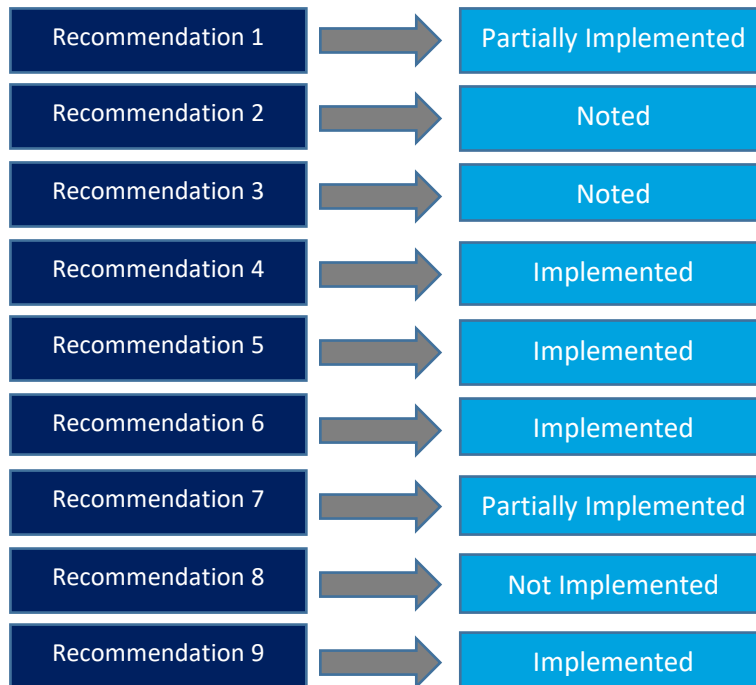
Recommendation 9

Whenever Services Australia is requested by an individual to review a debt raised pre-2015 it should explicitly consider whether income averaging was used, following the same manual process it undertook for the refund process for the IC Program. If it identifies that income averaging was used as the sole basis for any portion of the debt, it should reduce that portion of the debt to zero, regardless of when that debt was raised. If the individual has repaid that debt and has no other debt owing to Services Australia, that payment should be refunded.

Services Australia should ensure its website clearly identifies the availability of this process, how a person can request it, and the person's options for further review should they be dissatisfied with the initial decision.

- 1.293. The Office considers Services Australia has implemented this recommendation.
- 1.294. Services Australia's internal staff guidance details information about how to treat pre-2015 debts and states that averaged information is not to be relied on. Services Australia may decide to seek alternative information from the individual or third-party sources. If that is unavailable, the agency will recalculate the debt.
- 1.295. Services Australia's website provides information about individuals' review and appeal rights. Services Australia updated its website to specifically mention pre-2015 debts. The information includes:
- how a person can request an explanation of a decision or apply for a formal review
 - a statement that a review can be requested if the individual disagrees with 'the employment income information that caused the debt'
 - a direct phone number to the appropriate Customer Compliance Team.

- 1.296. Services Australia could strengthen the information on its website by clarifying that even if a customer has previously had a decision about a pre-2015 debt reviewed, they are able to request a further review.



PART 12: OVERVIEW OF RECOMMENDATIONS REGARDING LAW ENFORCEMENT USE OF COVERT AND INTRUSIVE POWERS

Function and Oversight

- 1.297. One of the Ombudsman’s functions is to assess compliance of Commonwealth, State and Territory law enforcement and integrity agencies’ use of certain covert, intrusive and coercive powers. This involves inspecting and reporting on Commonwealth, state and territory law enforcement and integrity agencies’ compliance when using certain powers under the *Telecommunications Act 1997*, *Telecommunications (Interception and Access) Act 1979* (TIA Act), *Crimes Act 1914 and Surveillance Devices Act 2004* (SD Act). The Ombudsman is also responsible for reviewing the AFP’s administration of its complaint handling under Part V of the *Australian Federal Police Act 1979*, and use of compulsory examination and notice to produce powers by the Fair Work Ombudsman and Australian Building and Construction Commission.
- 1.298. We inspect or review agencies’ use of these powers which involve:
- the inspection of paper and electronic files
 - the inspection of systems
 - interviews with staff
 - observing practices
 - maintaining a working knowledge of each agency’s systems, policies, and procedures.
- 1.299. A person is typically unaware they are the subject of these powers since agencies exercise them covertly. As a result, people typically cannot complain about or question an agency’s actions. In these circumstances our role is to assess and report on an agency’s legislative compliance and to provide a level of assurance that agencies are applying these powers as Parliament intended.

Reporting and Recommendations

- 1.300. After an inspection, the Office prepares a report of our findings and provides it to the agency for comment. In these reports, we may make suggestions (including better practice suggestions) and/or recommendations to an agency about action it could or should take to remedy an issue or prevent reoccurrence.
- 1.301. When making recommendations or suggestions, the Office applies consistent inspection methodologies developed to meet the requirements of the relevant legislation. Our recommendations or suggestions may, among other issues, address matters such as an agency’s record keeping standards, quality assurance processes, legislative non-compliance in relation to a particular warrant, authorisation or record and the agency’s compliance culture.

- 1.302. Our agency inspection reports and comments received in response from agencies, inform the Ombudsman’s statutory reports which are provided to the relevant Minister and/or tabled in Parliament. We prepare our statutory reports on a quarterly, bi-annual, or annual basis depending on the relevant statutory requirement. Some statutory reports are tabled in Parliament either directly by our Office or by the relevant Minister, and some are provided to the Minister to be summarised in the Minister’s own annual reports.
- 1.303. Our statutory reports are available on our [website](#).
- 1.304. Our 2019–2020 and 2020–2021 statutory reports included 26 recommendations previously made to agencies during these periods following our inspections and reviews under Commonwealth and ACT legislation.
- 1.305. We follow up on agencies’ progress against each recommendation or suggestion at our subsequent scheduled inspection.

Own Motion Investigations

- 1.306. In addition to routinely scheduled inspections, the Office conducts own motion investigations (OMI) where necessary. The Office’s OMI report into [the AFP’s use and administration of telecommunications data powers 2010 to 2020](#) published in April 2021, found compliance issues with the AFP’s access to location-based services (LBS) data. The report made 8 recommendations to the AFP to assist in addressing these issues and implementing processes to prevent recurrence of similar issues.
- 1.307. The Office conducted a review of the AFP’s actions to date in response to the 8 recommendations in February 2022. We continue monitoring the AFP’s progress and will publicly report on the AFP’s implementation of these recommendations in our next biennial recommendation implementation report.

PART 13: OVERVIEW OF OUR OVERSIGHT OF COMMONWEALTH PLACES OF DETENTION

Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)

- 1.308. OPCAT is an international treaty designed to strengthen protections for people who are deprived of their liberty and potentially vulnerable to mistreatment and abuse. Australia ratified OPCAT in December 2017. Upon ratifying OPCAT, member nations are required to establish a system of regular preventive visits by independent bodies, known as National Preventive Mechanisms (NPMs), and receive visits from the United Nations Subcommittee on Prevention of Torture.
- 1.309. In July 2018, the Australian Government designated the Office as the NPM for places of detention under the control of the Commonwealth. This includes immigration detention facilities, ADF detention facilities, and AFP cells. Visits under OPCAT are intended to be preventive in nature rather than reactive and consider systemic issues or systems where torture and other inhuman or degrading treatment or punishment may occur. The oversight mechanisms established under OPCAT ensure the conditions and treatment within places of detention are respectful, safe and humane. The Office is expanding its inspection approach for immigration detention facilities in line with OPCAT.

Immigration detention facilities

- 1.310. The Office carries out its inspection mandate under OPCAT through the use of its motion investigation powers under the *Ombudsman Act 1976*. These powers enable the Office to gather information, conduct visits and publish reports.
- 1.311. Over the July 2019 to June 2021 period, oversight of immigration detention facilities remained a primary focus for the Office.
- 1.312. An immigration detention facility can include an immigration detention centre, immigration transit accommodation or another place designated as an alternative place of detention (APOD). The Office's monitoring of immigration detention involves:
- assessing information the Department of Home Affairs (the department) provides about detainee numbers and cohorts, health facilities, recent incidents and other information relevant to our role
 - wherever possible, attending the relevant detention facility in person to conduct a site visit. The Office has regularly visited detention facilities since 2010.
- 1.313. Based on the information obtained, the Office assesses the facility's overall performance based on the treatment of, and conditions for, detainees. The Office assesses performance against the following key indicators:

- Safety – detainees are held in safety, and the use of force and disciplinary procedures are considered a last resort
- Respect – detainees are treated with respect for their human dignity and the circumstances of their detention
- Purposeful activity – the facility encourages activities and provides facilities to preserve and promote the mental health and physical well-being of detainees
- Wellbeing and social care – detainees can maintain contact with family and friends, support groups, and legal representatives, and have a right to make a request or complaint
- Physical and mental health – detainees have access to appropriate medical care equivalent to that available within the community. Stakeholders work collaboratively to improve general and individual health conditions for detainees.

Reporting and Recommendations

- 1.314. After a site visit, the Office provides feedback to department and detention facility staff (including the Australian Border Force and contracted service providers) outlining observations and suggesting improvements to the administration of the facilities and the treatment and conditions of detainees. This feedback allows for remedial action to be taken in a timely fashion and in advance of receiving the Office’s formal published report.
- 1.315. The Office also publishes reports on our [website](#) summarising the Office’s oversight activities relating to immigration detention. The reports have recommendations for improving the administration of facilities and the treatment and conditions of detainees. The department’s observations, including their responses to recommendations contained in the report, are included in the final published report. The report also provides an overview of the actions taken by the department in response to recommendations made in previous reports.
- 1.316. Past reports contain recommendations on a range of issues, including ensuring detainees have access to appropriate programs and activities, ensuring detainees in APODs have access to welfare and support, improving the quality and consistency of complaint records, and ensuring high care accommodation facilities are fit-for-purpose. The Office has had a particular focus on the use of force and the application of mechanical restraints on detainees. The Ombudsman made several recommendations on these issues including that:
- the department remind staff not to use force other than in accordance with appropriate procedures, and that reviews of the use of force by the department are completed within 6 months of an incident being referred (recommendations 1 and 2, [July – December 2019, Monitoring Immigration Detention Report, report 06/2020](#))
 - the department implement measures to track and assess the reasonableness of the use of force and ‘mandatory ground stabilisation’ within the immigration detention network, and if appropriate, provide targeted training to support staff in using alternative strategies to manage

detainee behaviour (recommendation 1, [January – June 2020, Monitoring Immigration Detention Report, report 04/2021](#))

- the department ensure that detainees participating in excursions are only subjected to pat searches and mechanical restraints when necessary, using a risk-based approach considering any possible alternative mitigations and in accordance with departmental policy (recommendation 16, [1 July 2020 – 30 June 2021, Monitoring Immigration Detention Report, report 01/2022](#)).

- 1.317. The Office published 2 Monitoring Immigration Detention reports across the 2019–2020 and 2020–2021 financial years containing a total of 15 recommendations. The department agreed to 12 recommendations, agreed in part to one recommendation, disagreed with one recommendation, and noted one recommendation. In July 2020, in response to COVID-19, the Office issued a public statement about the department’s arrangements for preventing and managing COVID-19 in the immigration detention network and made 3 recommendations.
- 1.318. In June 2022, the Office published the Monitoring Immigration Detention Report covering the period 1 July 2020 – 30 June 2021. The report contained 17 recommendations and 20 suggestions. Of these, the department agreed with 12 recommendations, partially agreed with 1 recommendation, and noted the remaining 4 recommendations.
- 1.319. The Office monitors progress of previous recommendations, with follow up through a range of methods which may include requesting information from the department, observations during subsequent site visits or examining specific records. Furthermore, the Office’s Monitoring Immigration Detention reports generally outline previous recommendations made by the Office, the actions taken by the department in response, and the extent to which further action is required for implementation.
- 1.320. The Office’s bi-annual and annual reports, and public statements on immigration detention, can be found on the Ombudsman [website](#).

APPENDIX: AGENCY RESPONSES



ACT
Government
Justice and Community Safety

ACT Corrective Services

Mr Iain Anderson
ACT Ombudsman
GPO Box 442
Canberra ACT 2601

Dear Mr Anderson

Draft Report Did they do what they said they would do? Volume 2

Thank you for your letter dated 29 July 2022 and the opportunity to review the ACT Corrective Services (ACTCS) component of your draft report. I confirm that ACTCS has not identified any errors of fact in the draft report.

As you know, ACTCS has undertaken a significant change agenda over several years and these efforts continue. ACTCS has fully implemented the majority of recommendations assessed as 'partially implemented' during the Preliminary View stage of this report and remains committed to implementing those that remain. I have directed my team to provide supporting evidence, particularly in relation to the launch of the Offender Management Information System (which occurred on 27 June 2022), delivery of programs to support detainee rehabilitation and policies and procedures to support implementation of the Integrated Offender Management Framework.

Thank you again for the opportunity to respond to this report.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'Ray Johnson', written over a circular stamp.

Ray Johnson ^{APM}
Commissioner
ACT Corrective Services
8 September 2022

ACT Revenue Office (by email)

The ACT Revenue Office notes that your office considers that ACTRO has implemented Recommendations **1, 4** and **8**.

Recommendations **2, 3** and **6** are partially implemented and will not be fully implemented until the ACT Rating and Taxing Valuation Procedures Manual is completed. Work is continuing on the manual and a copy will be provided to your office when it is completed.

Comments on Recommendations **5, 7** and **9** have been included in the attached document.

Recommendation 5:

ACT Revenue Office Comment: Funding has been provided in the 2022-23 Budget for a new valuation IT system that will be able to provide additional valuation information to property owners. Once this is in place new arrangements for accepting objections will be developed.

Recommendation 7:

ACT Revenue Office comment: An internal review of open access information was completed by the end of March 2022 and the findings were circulated to the senior management team.

Recommendation 9:

ACT Revenue Office comment: The increase in residential values across all suburbs in 2022 was a result of a property boom largely driven by low interest rates. This is explained on the ACT Revenue Office website. For commercial values there is an explanation of changes by suburbs with substantial movement on the ACT Revenue Office website - https://www.revenue.act.gov.au/rates?result_1060955_result_page=6

Australian Federal Police

Response in relation to the handling of allegations made about the Hon Angus Taylor MP

The AFP welcomes the findings of the Commonwealth Ombudsman's report in relation to the AFP's implementation of the two recommendations made in the Statement by the Commonwealth Ombudsman Michael Manthorpe on the handling of allegations made about the Hon Angus Taylor MP. In this report the Ombudsman's office assessed the AFP as having implemented the Ombudsman's recommendations.

The AFP is committed to cooperating with the Commonwealth Ombudsman and appreciates the work of the Ombudsman and his office.

The AFP works cooperatively with the Commonwealth Ombudsman to review the practices and procedures of the AFP and to implement the findings and recommendations of the Ombudsman, as required.



Chief Police Officer for the ACT
GPO Box 401 Canberra ACT 2601
Telephone [REDACTED]
Email: [REDACTED]
www.afp.gov.au ABN 17 664 931 143

8 September 2022

Mr Iain Anderson
ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601

Dear Mr Anderson *Iain*

ACT Policing's administrative framework for engagement with the ACT Aboriginal and Torres Strait Islander community

Congratulations on your appointment as the Commonwealth and ACT Ombudsman. ACT Policing is committed to working with your office to demonstrate our decisions are transparent, lawful, fair and accountable.

I am writing with ACT Policing's response to the letter provided by former acting ACT Ombudsman, Penny McKay, dated 29 July 2022 in relation to the biennial report on the implementation of Ombudsman recommendations made in reports between 1 January and 31 December 2021.

ACT Policing is in the process of implementing the nine recommendations. I can confirm ACT Policing accepts recommendation one, two, five, six, seven and nine, partially accepts recommendation three and eight, and notes recommendation four.

Attachment A is a progress document outlining specific action taken in relation to the recommendations as well as a summary of the expected implementation date. I acknowledge that the implementation of ACT Policing recommendations have experienced delays and trust you accept the explanations provided within the progress document.

The draft report has been reviewed and no errors of fact nor any omissions were identified.

I would however, like to draw your attention to the shift in anticipated timeframes for each recommendation per Attachment A. I am committed to implementing solutions to the issues raised in your report and will continue to consult with First Nations communities in the ACT to ensure each recommendation is jointly progressed. The deliberate approach being taken will

POLICING FOR A SAFER AUSTRALIA

best place ACT Policing to achieve the aspiration of the recommendations whilst concurrently building authentic and trusted relationships between it and the community.

To discuss this realigned approach ACT Policing is required to take, [REDACTED] Coordinator Legislation & Policy and Acting Superintendent [REDACTED] Chair of the Aboriginal and Torres Strait Islander Working Group, met earlier this week with Acting Senior Assistant Ombudsman, Hannah Walsh. Ms Walsh expressed her confidence with this strategy and applauded the commitment ACT Policing is demonstrating to comply with the recommendations.

Should you require any additional information, please contact [REDACTED], Coordinator Legislation and Governance, on [REDACTED] or via email at [REDACTED].

I look forward to working with you and will have my office reach out to arrange a meeting in the near future.

Yours sincerely



Deputy Commissioner Neil Gaughan APM
Chief Police Officer for the ACT

POLICING FOR A SAFER AUSTRALIA

Recommendation 1: Strategic Plan

Status: ACT Policing continues to accept this recommendation
In progress

Response: In December 2021 ACT Policing joined the Australia and New Zealand First Nations National Policing Forum (then) chaired by Queensland Police Service, a collegiate entity established to facilitate engagement between the member jurisdictions through discussion on:

- successes and challenges in relation to innovative policing activities, policies and prevention strategies,
- concerns, insights and feedback of First Nations and Māori peoples,
- and facilitate discussion about successes and challenges about policing activities, policies and prevention strategies.

As a result of this membership, ACT Policing were provided with the [Aboriginal Strategic Direction 2018-2023](#) (ASD) of the NSW Police Force. This policy outlines significant consultation and co-design with First Nations communities – refer Part 1.2. This recommendation is central to the work and achievement by ACT Policing against the remaining recommendations.

The ACT Policing Working Group tasked with implementing the Ombudsman’s Own Motion Investigation (OMI) recommendations comprises operational and professional members across the organisation, as implementation requires holistic organisational change. In early 2022 the Working Group determined it would be advantageous to engage a consultancy service provider (that incorporated a First Nations capability).

This approach will ensure:

- The required project management approach is adopted, and
- Work closely with ACT Policing having identified limited capability (expertise and cultural competency) and recognising an internally driven body of work is not in the spirit of the recommendation.

The Working Group recommended to the Chief Police Officer (CPO) that an independent third-party to critically examine ACT Policing capability, policy, functions and relationships with the Aboriginal and Torres Strait Islander community together with (related) stakeholders was preferred and would be better placed to seek and leverage from community input through a trusted intermediary. The CPO accepted this recommendation.

Subsequently, the Working Group utilised the Supply Nation Indigenous Business Directory to identify relevant Indigenous service providers. This ensures ACT Policing complies with the mandatory Commonwealth Procurement Rules relating to the *Indigenous Procurement Policy* (IPP) as required for the identification and procurement of activities with Indigenous service providers.

This process identified a Canberra-based consultancy service provider specialising in First Nations matters; where after the Working Group reviewed the *WoAG Management Advisory Services Panel* and determined the identified consultant capability could be directly engaged through the Commonwealth Department of

Finance's Panel approach to service suppliers under an existing standing offer arrangement.

In May 2022 members of the Working Group met representatives of the identified consultant service provider, seeking their interest in:

1. Providing a project management approach to delivering the recommendations of the ACT Ombudsman.
2. Assist ACT Policing to consult and engage with the local Aboriginal and Torres Strait Islander community in relation to the recommendations – noting that building authentic relationships is central to implementing the OMI recommendations successfully.
3. Development of products, relating to an overarching strategic plan, the engagement and consultation strategy and evaluation of the Aboriginal Liaison Officer role.

The quotation provided by the consultant entity indicated:

1. Notwithstanding the direct approach methodology, the Working Group was now required to engage with more than one provider, and
2. Commonwealth procurement rules enabled the High-Value Spending Proposal requirements.

Completion: This outcome has set-back the completion of responses by ACT Policing to the recommendations from the expected completion date (4th Quarter 2022 / 1st Quarter 2023).

However, commencing mid-August 2022, the Working Group has secured an AFP member at Team Leader level to dedicate to this task along with recommendations #2 (Standard Operating Procedures) and #7 (Cultural Training). It is anticipated the procurement process will be completed and in place by December 2022 where after the body of work will commence.

End of 2023 noting significant engagement with community required to deliver outcomes across the recommendations together with a co-designed strategic plan.

Recommendation 2: Standard Operating Procedures (SOP)

Status: ACT Policing continues to accept this recommendation
In progress

Response: Previously ACT Policing had advised Aboriginal Liaison Officers (ALOs) had begun developing SOPs specific to that role which will be considered for inclusion in a broader ACT Policing response to this recommendation. The ALO SOP is now complete however remain as live working guidelines in order to be responsive to shifts in the operating environment.

Concurrent with the work connected with drafting the ALO SOP, the Community Engagement Team (CET), Education and Diversion Team (EDT) and the Proactive Intervention & Diversion Team (PIDT) within the Vulnerable Persons and Proactive Policing (VP&PP) Command have also drafted SOPs specific to roles contained therein.

These roles include the Liaison Officer functions for Youth, Seniors, Multicultural, Disability Justice, Criminal Justice Diversion, ACT CVE/Cth LSTIP, Education (Think U Know) and PIDT and were drafted in recognition their fields have overlap with many community cohorts including First Nations. In undertaking this activity, the existing and new elements of the recommendation are achieved and all SOPs are complimented by a Stakeholder Engagement Ledger concurrently developed with the SOPs.

In early 2022 the Working Group realigned the approach being adopted more broadly for ACT Policing, determining that a stand-alone SOP for engagement by ACT Policing with First Nations communities would not meaningfully respond to the recommendation – broader reform of all relevant governance is needed if it was to be readily observed, and to effectively put into motion organisational change.

As such, the Working Group conducted a review of all ACT Policing governance, and identified the following governance items relevant/related to the recommendation:

- ACTP007 Alcohol and Other Drug Diversion Program referral procedure
- ACTP008 Diversionary Conferencing Restorative Justice
- DCPOC009 Bail
- DCPOC010 Breach of the Peace
- DCPOC011 Sobering Up Shelter
- DCPOC012 Children and Young People
- DCPOC024 Police Criminal Cautions
- ACTP041 Victims of Crime
- DCPOC039 Extraditions
- DCPOC049 Police attendance at deaths
- DCPOC031 Child abuse and sexual offence first response procedures
- ACTP068 Missing Persons (ACT Policing)
- DCPOC030 Interviewing vulnerable witnesses
- DCPOR012 Persons suffering from mental illness or mental disorder
- ACTP046 Watch House Death in Custody
- ACTP079 ACTP Watch House Handbook
- ACTP022 Better Practice Guide on Victims' Rights (ACT)

- DCPOC062 ACT Fixated and Lone-Actor Grievance-Fuelled Violence (ACT FLAG) Assessment Team

Commencing mid-August 2022, the Working Group has secured an AFP member at Team Leader level to dedicate to this task along with recommendations #1 (Strategic Plan) and #7 (Cultural Training).

Noting the ownership of the identified governance is spread across ACT Policing portfolios, and in order to ensure consistency and quality-control of this work, this member will engage with owning portfolios to collaboratively re-shape governance in line with the recommendation.

Completion: It is anticipated the realignment of ACT Policing governance will be completed by the end of 2022.

Recommendation 3: Indigenous identifying information

Status: ACT Policing continues to partially accept this recommendation
In progress

Response: Previously ACT Policing had advised it was consulting with stakeholders and the First Nations community to determine how to best implement this recommendation and in that regard:

- In April 2021 ACT Policing had engaged Katrina Fanning as (then) Chair of the Aboriginal and Torres Strait Islander Elected Body (ATSIEB). In doing so, ACT Policing learned ATSIEB was in caretaker mode leading into an election and intended to reach out to newly elected members and Chair.
- ACT Policing intended to consult with the Justice and Community Safety Directorate (JACSD), the Ombudsman and the Aboriginal Legal Services to implement this recommendation.

In September 2021 the CPO wrote to Lynnice Church the (then) in-coming Chair of ATSIEB and in October 2021 the (then) Chair responded, supporting (in general) the principal of collection of data from persons identifying as First Nations, particularly in relation to victims. Meetings between CPO and Chair ATSIEB have been abandoned for variety of reasons since, however the CPO continues to wish to meet with (present) Chair, Kanya Keed to discuss the community reaction to this recommendation.

In December 2021 ACT Policing joined the Australia and New Zealand First Nations National Policing Forum (then) chaired by Queensland Police Service, a collegiate entity established to facilitate engagement between the member jurisdictions through discussion on:

- successes and challenges in relation to innovative policing activities, policies and prevention strategies,
- concerns, insights and feedback of First Nations and Māori peoples, and
- facilitate discussion about successes and challenges about policing activities, policies and prevention strategies.

ACT Policing used this forum to discuss if, how and why other police jurisdictions sought identification information and in doing so was directed to NSW Police. In May 2022 a Working Group representative later met with the Manager of the Aboriginal Coordination Team - Crime Prevention Command who gave guidance around seeking identification. Advice provided was two-fold:

1. Responses to requests must be explicitly voluntary, and
2. The purpose for seeking this information must demonstrably be connected with a purpose that is in the First Nations person's interests - a perceivable benefit - otherwise it will risk further embedding distrust with police.

In June 2022 the CPO sought guidance from members of the CPO Advisory Board as to whether the issue had been raised/discussed within ATSIEB to determine whether the latter is supportive of this recommendation – advised support or not was not as yet indicated and consequently it is yet to be advanced.

Referencing Recommendation #1, there will be scope for further and potentially broader community engagement on the subject of identification through the consultative Project Management approach being adopted including the development of an over-arching Strategic Plan. ACT Policing has received informal feedback that members require further training to ensure such questions are asked respectfully, to encourage the desired outcome in the spirit of the recommendation. That is - to ensure identifying members of the community feel comfortable to identify to police, facilitating access of culturally appropriate services.

ACT Policing operational members across their duties are required to ask community members whether they identify as Aboriginal and Torres Strait Islander in relation to a number of matters. Referencing Recommendation #7, the cultural training package will strengthen the skills of members in how to ask for identifying information respectfully. While a number of individuals identify as Aboriginal and/or Torres Strait Islander to ACT Policing, we are cognisant that there are many reasons why individuals may not wish to identify with police, including distrust of police. ACT Policing is committed to building relationships with local communities to implement the Report holistically, which will further support the implementation of this recommendation.

Completion: It is anticipated the recommendation will be completed by the end of 2023.

Recommendation 4: Program evaluation and data analysis

Status: ACT Policing continues to note this recommendation
In progress

Response: Previously ACT Policing:

- Noted the recommendation, having regard to the concerns and limitations identified in ACT Policing’s initial response to Recommendation #3.
- Undertook to work with JACSD regarding updates to the broader Performance Measure Framework as part of the Purchase Agreement negotiations.
- Advised that further actions will be considered regarding what data is possible to report on, and how such data is obtained once ACT Policing have received a response from the community in relation to recommendation three.

The ACT Policing Purchase Agreement body of work was delayed due to the caretaker period for the 2022 federal election, whereby the AFP as a federal organisation could not refresh the contractual arrangement between ACT Policing and ACT Government. The ACT Policing Purchase Agreement remains a body of work in progress.

An additional key metric of performance includes the *ACT Aboriginal and Torres Strait Islander Agreement 2019-28 – Action Plans – Significant Focus Area – Justice*. Through the Action Plan, ACT Policing remains committed to the targets adopted under *Closing the Gap for the ACT* which include the diversion by ACT Policing of at least 25 per cent of all eligible 18-25 year-old First Nations people from the formal criminal justice system into Restorative Justice.

Commencing in 2021, ACT Policing have worked with JaCSD Restorative Justice Unit to reform the Restorative Justice Program including the adoption of a case management approach, co-design and delivery of training packages to police recruits and front-line personnel and streamlining the referral process. The purpose of this body of work is to enhance utilisation of Restorative Justice. An impediment to the aim being achieved continues to concern limitations of the statutory eligibility criteria, delay between referral and commission of diversionary conferencing and unwillingness on the part of perpetrators to participate.

Members in the Restorative Justice unit will also participate in the cultural training package, once available, to ensure a level of cultural literacy if not competency is maintained in how the program is managed.

Completion: Previously the body of work concerning performance indicators was flagged as likely completed in June-July 2022. The drawn out process in relation to the incoming Purchase Agreement has shifted forecast completion of this recommendation to by the end of 2022.

Recommendation 5: Engagement and consultation strategy

Status: ACT Policing continues to accept this recommendation
In progress

Response: This recommendation is closely aligned with:

- Recommendation #1 and will be developed through that process, and
- Recommendation #2 in relation to the development of the ALO and other LO SOPs of the Vulnerable Persons and Proactive Policing Command.

Previously ACT Policing identified this recommendation is linked to and dependant on the completion of Recommendations #1, #2 and #6 and this observation is retained.

The ACT Policing Aboriginal Liaison Officer (ALO) Standard Operating Procedure required under Recommendation #2, including the related Stakeholder Engagement Ledger is now complete.

Concurrent with the completion of the ALO SOP has been the creation of SOPs for the following roles within the Vulnerable Persons & Proactive Policing Command noting the potential over-lap between cohorts:

- Community Engagement Team (CET)
 - Youth
 - Seniors
 - Multicultural
 - Disability Justice
- Education and Diversion Team (EDT)
 - Criminal Justice Diversion
 - ACT CVE/Cth LSTIP
 - Education (Think U Know)

ACT Policing continues to see this body of work being aligned to and dependant on the completion of Recommendations #1, #4, #5 and #6.

Completion: Previously the body of work was flagged as forecast for completion completed in 4th Quarter 2022/1st Quarter 2023. Notwithstanding significant achievement to date, when recognising this body of work falls in scope and is dependent on completion of those related recommendations. Subsequently the revised forecast completion is end of 2023.

Recommendation 6: Evaluation of the ALO role

Status: ACT Policing continues to accept this recommendation
In progress

Response: Previously ACT Policing advised a recruitment process for a third ALO was to commence and the role scope/description was to be drafted to meet the strategic needs identified within the recommendation.

The third ALO role was advertised in November 2021 at the AFP Band 6 level – existing ALOs (2) are engaged at AFP Band 4 level. The variance in AFP Band reflected the strategic intent and work performance standards of the role to lift engagement on the part of ACT Policing with representative forums, stakeholders, partners and agencies. In August 2022 the role was occupied and is beginning to establish professional networks and appreciate the operating environment together with this OMI. The new role (Senior ALO) is now a participant and contributor for the Working Group and CPO Advisory Board, whilst also representing ACT Policing at external forums.

Though not expressly outlined in this recommendation, ACT Policing sees this body of work being aligned to and dependant on the completion of Recommendations #1, #4 and #5.

The completion of those recommended elements will allow ACT Policing to revisit the ALO SOP and thereafter the role scope for the position to ensure the role is adequately responsive to community needs and expectations, and supported to fulfil the same.

Completion: Previously the body of work was flagged as forecast for completion completed in June/July 2022. Notwithstanding significant achievement to date, when recognising this body of work falls in scope and is dependent on completion of those related recommendations. Subsequently the revised forecast completion is end of 2023.

Recommendation 7: Cultural Training Strategy

Status: ACT Policing continues to accept this recommendation
In progress

Response: Previously ACT Policing advised it will undertake a review of cultural training delivered to police recruits in partnership with the AFP First Nations Unit, whereupon a revised training package would be developed that incorporates historical issues, contemporary challenges/opportunities and community engagement.

Since this advice, ACT Policing has adopted a stand-alone approach to this recommendation in order to advance that body of work and achieve coverage across the existing front-line workforce as opposed to solely recruits.

Similar to the approach and outcomes in Recommendation #1, ACT Policing used the Commonwealth Direct Engagement methodology to seek submission from a First Nations training provider, partnering with the United Ngunnawal Elders Council.

In April 2022 members of the Working Group met representatives of the identified training provider seeking their interest in designing and delivering a training program following a period of community consultation.

ACT Policing hosted a workshop with a variety of sworn and professional staff, (Indigenous and non-Indigenous), the identified consultant entity and a Ngunnawal Elder to scope the potential products, to ensure the training is fit-for-purpose and appropriately covers the local context. ACT Policing is committed to, and will continue to, seek feedback from Aboriginal and Torres Strait Islander communities in the ACT on the training as it is further developed, so local communities can have input on the nature of the training.

The quotation provided by the training provider indicated:

1. Notwithstanding the direct approach methodology, the Working Group was now required to engage with more than one provider, and
2. Commonwealth procurement rules outline the procurement requirements relating to the High-Value Spending Proposal.

Completion: This outcome has set-back the completion of responses by ACT Policing to the recommendations from the expected completion date of June/July 2022. However, commencing mid-August 2022, the Working Group has secured an AFP member at Team Leader level to dedicate to this task along with recommendations #2 (Standard Operating Procedures) and #7 (Cultural Training). It is anticipated the procurement process will be completed and in place by December 2022 where after the body of work will commence.

ACT Policing forecasts delivery of the training package to commence at the beginning of FY2023-24 noting significant engagement with community is required to deliver outcomes across the recommendation. Noting the holistic organisational change required to implement the OMI Recommendations successfully, ACT Policing is committed to ensuring the training is implemented in consult with community, as the training is likely to be rolled out over future financial years.

Recommendation 8: Record Management Policy

Status: ACT Policing continues to partially accept this recommendation
In progress

Response: Previously ACT Policing advised it will engage with the newly elected members and Chair of the ATSIEB to continue this consultation going forward.

In April 2021 ACT Policing had engaged Katrina Fanning as (then) Chair of the Aboriginal and Torres Strait Islander Elected Body (ATSIEB). In doing so, ACT Policing learned ATSIEB was in caretaker mode and intended to reach out to newly elected members and Chair.

In March 2022 the Working Group identified the completion of Recommendation #3 is needed to be resolved before implementation however commenced dialogue with AFP Operational Science & Technology in relation to reform of the AFP PROMIS database. The Working Group were advised PROMIS Person Entities are difficult to modify, requiring significant cost and time by developers to build, test and conduct QA of modifications before moving into a PROMIS production state. Subsequently the time frame would depend on the complexity of the change and the reporting functionality sought.

Compounding this issue is the transition by the AFP from PROMIS to the IMS database. In May 2022 the Working Group engaged the IMS Implementation Team learning IMS can more readily address all aspects of this recommendation, and whilst a support case was generated, priority was on establishing IMS functionality and delivering training to personnel across the entire AFP. Once developed, the support case can be livened and amended to contain whatever information is required in support of this recommendation.

In the interim, the existing PROMIS database contains an ethnicity field (non-mandatory) for all PROMIS Person Entities and subsequently this functionality technically fulfils the recommendation's requirement. Having said that, ACT Policing acknowledges the unresolved issue connected with Recommendation #3 impedes the extent to which this recommendation can be realised.

Completion: This outcome has set-back the completion of responses by ACT Policing to the recommendations from the expected completion date of 4th Quarter 2022/1st Quarter 2023.

Whilst (technically) completed, ACT Policing forecasts further progress relies on IMS development work than cannot be resolved until Recommendation #3 is. Should that recommendation be resolved in the affirmative, IMS work cannot commence in earnest until end 2022 and likely will not be in place until the end of 2023.

Recommendation 9: Complaint handling guidelines

Status: ACT Policing continues to accept this recommendation
In progress

Response: Previously ACT Policing advised:

- It will consider sensitivities associated with this recommendation, and
- Reform of the online AFP Complaint Recording and Management System (CRAMS) database and AFP Complaint Handling Guidelines will be shaped by advice of AFP Professional Standards.

In 2021 the AFP commenced reform to the complaint investigation model, specifically the formulation of a centralised complaint management capability in lieu of the existing AFP (regional/functional) Complaint Management Team (CMT) approach. The new model is being implemented throughout the AFP, with ACT Policing being absorbed during the second half of 2022.

Delay to the implementation of this recommendation has been two-fold:

1. The focus by AFP PRS on establishing the centralised complaint management model, and
2. A concurrent body of work by AFP PRS to reform/replace the CRAMS database.

ACT Policing anticipates the Ombudsman is well aware of both of these bodies of work through their established bi-annual investigations.

Notwithstanding the technical ability for ACT Policing to work with AFP PRS concerning this recommendation, the outcome encountered in Recommendation #3 is repeated here – endorsement by the First Nations community around ACT Policing seeking and recording identification information.

Referencing Recommendations #1 and #3, there will be scope for further and potentially broader community engagement of the subject of identification through the consultative Project Management approach being adopted including the development of an over-arching Strategic Plan.

Completion: This outcome has set-back the completion of the recommendation from the expected completion date of July 2022. Subsequently the revised forecast completion is end of 2023.



Australian Government
Commonwealth Superannuation Corporation

3 August 2022

Ms Penny McKay
Acting Commonwealth Ombudsman
GPO Box 442
CANBERRA ACT 2601

Dear Ms McKay

Thank you for providing your Office's draft report *Did they do what they said they would? Volume 2* concerning the implementation of all recommendations of the *Investigation into the administration of the Defence Force Retirement and Death Benefits (DFRDB) scheme*.

I am satisfied that the report captures that the Commonwealth Superannuation Corporation accepted and implemented all recommendations of the Ombudsman's inquiry.

Please contact me at any time if you would like to discuss this important issue.

Yours sincerely

Damian Hill
Chief Executive Officer



Commonwealth
Superannuation
Corporation

Commonwealth Superannuation Corporation (CSC)
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PSBL: U0001397

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Australian Government

Defence

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EC22-003254

Iain Anderson
Commonwealth Ombudsman
GPO Box 442
Canberra ACT 2601

Iain,
Dear Mr Anderson

Congratulations on your recent appointment as the Commonwealth Ombudsman. Defence looks forward to continuing our productive and positive relationship with your office.

On 29 July 2022, the Acting Commonwealth Ombudsman, Penny Mackay, wrote to Defence outlining the intent to publish the Office of the Commonwealth Ombudsman's biennial report '*Did They Do What They Said They Would?*' on the implementation of recommendations by Defence to reports from 1 July 2019 to 30 June 2021.

Defence is grateful for the opportunity to review the draft report and we can confirm Defence concurs with the final draft, with minor notations for your consideration.

Defence has accepted all recommendations from the two reports '*Defence's policies for receiving and responding to reports of abuse*' published August 2019, and '*Inquiry into behaviour training for Defence recruits*' published July 2020.

Of the 11 recommendations issued, nine have been implemented. Defence remains committed to ongoing maturity regarding all recommendations. Defence acknowledges two recommendations remain partially implemented and Defence will ensure their full implementation through current overarching reform and enterprise transformation activities.

2

Should you require further information, Defence's point of contact for this matter is the Assistant Secretary HR Services, [REDACTED], who can be contacted by email: [REDACTED].

Yours sincerely



Matt Yannopoulos
A/Secretary

1 September 2022



David Johnston, AC, RAN
Vice-Admiral
A/Chief of the Defence Force

02 September 2022

Attachment:

1. Defence Comments on Completed Ombudsman's Report

Attachment 1 : Defence Comments on Completed Ombudsman's Report

Recommendation 3:

- Defence has completed HRSE review. The review resulted in SeMPRO developing a new, broader Defence Sexual Misconduct Education Continuum. Defence People Committee endorsed the Continuum in March 2022 and further, approved sexual misconduct education become mandatory across Defence. Initial go-live date of package from January 2023 with additional following. Correspondence to advise of this development was sent to Ombudsman's Office April 2022.

Recommendation 4:

- Defence Enterprise Resource Planning (ERP) project will deliver a consolidated case management system, with this tranche of work scheduled for release in late 2023. Defence is committed to improving the current approach to Case Management as an interim approach ahead of ERP delivery. Current practices, although not yet a single platform, can provide sound data and analytics relating to unacceptable behaviour incidents.



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Office of the CEO

Mr Iain Anderson
Commonwealth Ombudsman
Office of the Commonwealth Ombudsman

Via email:

Dear Mr Anderson *Iain*

I am responding to correspondence from acting Ombudsman Penny McKay dated 29 July 2022.

The NDIA appreciates the opportunity to review and provide a formal response to the 'Did They Do What They Said They Would? Volume 2' report in advance of publishing. A copy of the reviewed report complete with tracked changes requested by the NDIA is provided at Attachment A.

The NDIA takes very seriously the relationship with the Office of the Commonwealth Ombudsman as evidenced by our relationship protocol.

The NDIA values the feedback provided by the Office of the Commonwealth which contributes to the continuous improvement the NDIA is undertaking to improve the experience of participants and their support networks.

Our formal response can be found at Attachment B.

Thank you again for the opportunity to provide an update on the work we are doing to address the recommendations in these reports. I look forward to the continued engagement of our two agencies.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Lisa Studdert'.

Lisa Studdert
Acting Chief Executive Officer
National Disability Insurance Agency

2 September 2022



Delivered by the
National Disability
Insurance Agency

Attachment B: NDIA response to point in time implementation of recommendations - Administration of NDIS Funded Assistive Technology

Recommendation 1	Partially Implemented	Implemented
<p>The NDIA implement an internal end-to-end process for handling and assessing assistive technology requests. The process should:</p> <ul style="list-style-type: none"> a) be clearly documented in staff procedure(s) for example, standard operating procedures or other guidance documents b) be consistent with information the NDIA makes publicly available about assistive technology requests, and c) include a quality assurance step to monitor compliance with policies and to identify any gaps in staff training. 		<p>1 a and 1 b:</p> <p>The NDIA published Our Guideline - Assistive Technology on the NDIS website in November 2020 and it was updated in May 2022 to reflect a streamlined approach to mid cost Assistive Technology (AT) (up to \$15,000). The new process reduces the number of AT requests that require a quote and/or a formal assessment before we approve it.</p> <p>The Operational Guidelines (OGs) provide easy to understand information about how we make decisions, including AT, in participant plans. The OG is supported by a suite of Standard Operating Procedures (SOPs) for staff and external web content for participants and stakeholders.</p> <p>The full end to end process for creating and approving a participant’s plan, including considering AT supports, is set out in the suite of OGs on the NDIS website, and in planning SOPs including system instructions for staff. The suite of OGs and SOPs provides transparent and easy to understand information about how we make decisions about AT and what evidence the participant needs to provide if they want AT in their plan. Externally published OGs are used by staff to make decisions and replace internal practice guidance.</p> <p>1 c:</p> <p>The Performance Management and Quality (PMQ) Learning Branch delivered Getting Mid-Cost Assistive Technology (AT) Right in October 2021 and a subsequent module New Mid-Cost Assistive Technology (AT) Approach in February 2022.</p> <p>Module 1 had a learning objective to apply correct AT supports, demonstrate understanding of the current AT funding and to establish good AT best practice</p>

Module 2 was a refresher that had the same learning objectives but importantly was updated in February 2022 to include the extension of Mid Cost AT to \$15,000 and release of a new Our Guideline (OG) on AT.

Both modules were deployed using the Agency Learning Management System LEAP tracking enrolment and completion.

Module 1 saw 3863 learners enrolled across National Delivery and Operations and Support Divisions and 4874 across Partner Division complete the module within a 3-month window.

Module 2 saw 2222 learners enrolled across National Delivery and Operations and Support Divisions and 2896 across Partner Division complete the module within a 3-month window.

PMQ completed a post-implementation review of changes to the mid-cost AT process in May/June 2022. The purpose of this review was to assess compliance with, and the effectiveness of, process changes introduced on 1 March 2022 relating to funding AT supports valued between \$1,500 and \$15,000. Quality Officers reviewed 205 current plans approved on or after 1 April 2022 that included funding for at least one mid-cost AT support. Areas where the revised process had not been fully embedded were observed, and a number of opportunities to improve practice and strengthen Standard Operating Procedures have been identified. These have been communicated with frontline leaders. A follow up review is scheduled to be completed after these actions have been implemented.

The status for Recommendation 1c is fully implemented.

<p>Recommendation 2</p> <p>The NDIA implement a single national participant (or client) records management system that allows staff to store, manage and retrieve all information relating to individual participants, including information about current plans, approved supports, scheduled plan reviews and any contacts the participant has made with the agency.</p> <p>Noting there are frequently long lead times for implementing IT solutions, we recommend that in the meantime, the NDIA:</p> <ul style="list-style-type: none"> a) establish and resource a central coordination process to efficiently identify and consolidate incoming communications received from various channels into a central client record location, and b) close and consolidate its regional email inboxes into a central inbox 	<p>Partially Implemented</p>	<p>In progress</p> <p>The Contact Centre Branch led a project to consolidate a number of Agency inboxes in 2021. Details on AT specific inboxes is below.</p> <ul style="list-style-type: none"> • There were 16 AT inboxes in 2021 • 13 AT inboxes have been closed • The Agency continue to use a small number of regional and some personal inboxes to send correspondence externally given staff do not have access to Salesforce (the new ICT system being implementing) and it is not feasible to send these emails from enquiries@ndis.gov.au at this time. This will be revisited after Salesforce transition. • 3 AT inboxes remain open: <ul style="list-style-type: none"> ○ Two of these remain open but have been redirected to enquires@ndis.gov.au as of 12 August 2022. National Delivery have been advised of the change. ○ the remaining inbox remains open as it is used by the NDIA business area for internal engagement.
<p>Recommendation 3</p> <p>The NDIA ensure requests for assistive technology are not missed if staff are on leave or have left the NDIA by:</p> <ul style="list-style-type: none"> a) including a workload management function in its new participant records management system (see recommendation 2), and b) implementing a workload management process to proactively reallocate or reassign work in real time, depending on the availability and caseloads of staff 	<p>Not Implemented</p>	<p>In Progress</p> <p><i>New Salesforce CRM</i></p> <p>NDIA is currently in the final stages of building a new CRM system. The new salesforce system, called PACE, will replace the existing Services Australia SAP CRM system. Real time testing of PACE is expected to start by the end of 2022 in Tasmania.</p> <p>There is a separate work package in PACE (Provisioning, Permission & Routing) that includes:</p> <ul style="list-style-type: none"> • user access and work routing based on permissions, instrument of Delegation, conflict of Interest, and skills • alerts for tasks approaching target timelines) that require action • ability for staff to reassign incorrectly routed work

- ability for line managers to reassign work
- where work flowed items are not actioned (due to staff availability), they are returned to the top of the queue for the next available person to action

Recommendation 4	Not Implemented	Partially Implemented
<p>To improve consistency and accuracy, the NDIA implement a fit for purpose knowledge management system to support staff to easily access guidance and procedures in a central location.</p> <p>In the meantime, the NDIA should improve navigability of existing guidance documentation, for example by improving length, clarity and narrative coherence of available guidance, and reducing links to separate documents and guidance.</p>		<p><i>OG refresh project</i></p> <p>The NDIA is updating its suite of Operational Guidelines (OG) as part of an "OG Refresh" project. Our OGs are the single source of truth about how we make decisions. Standard Operating Procedures (SOP) are divided into smaller relevant process steps and staff use the suite of OGs and SOPs to guide them through creating the participant's plan. The NDIA published Our Guideline - Assistive Technology on the NDIS website in November 2020 and it was updated in May 2022 to reflect a streamlined approach to mid cost AT (up to \$15,000). AT SOPs were refreshed and published in the new format at the same time.</p> <p>In progress</p> <p><i>New Salesforce CRM</i></p> <p>NDIA is currently in the final stages of building a new CRM system. The new salesforce system, called PACE, will replace the existing Services Australia SAP CRM system. Real time testing of PACE is expected to start by the end of 2022 in Tasmania.</p> <p>PACE includes a knowledge management function. Standard Operating Procedures (SOPs) will be replaced by knowledge articles, available in real time in PACE as contextual links or guiding prompts for each business process. Knowledge articles will be tagged to skills, and functions in PACE. An enterprise knowledge library will house knowledge for all functional roles and groups in the NDIA.</p>

<p>Recommendation 5</p> <p>The NDIA, informed by the evaluation of the specialised services assessment panel pilot, implement a process to assist participants to identify assistive technology supports at preplanning, to ensure their inclusion in plans at the earliest opportunity. The NDIA should update staff guidance and procedures to reflect the new process and provide information about the process to participants, for example, in the Participant booklet and/or on the website.</p>	<p>Partially Implemented</p>	<p>Implemented</p> <p>The NDIA published Our Guideline - Assistive Technology on the NDIS website in November 2020 and it was updated in May 2022 to reflect a streamlined approach to mid cost AT (up to \$15,000). The new process reduces the number of AT requests that require a quote and/or a formal assessment before we approve it. The OG is supported by a fact sheet with clear information about when you need to get evidence, advice, assessments, or quotes for assistive technology. The assistive technology explained web page on the NDIS website includes an animation about how to get AT in your plan. The participant booklet ‘creating your NDIS plan’, encourages participants to think about whether they need assistive technology before their planning meeting.</p>
<p>Recommendation 6</p> <p>To help participants gather and prepare information for their planning meeting, the NDIA should provide clear information about the assessment and/or quote requirements for commonly requested assistive technology supports. This information could be included in the Participant booklets or on the assistive technology page for participants on the NDIA’s website, with a reference to the website in the Participant booklet.</p>	<p>Partially Implemented</p>	<p>Implemented</p> <p>The NDIA published Our Guideline - Assistive Technology on the NDIS website in November 2020 and it was updated in May 2022 to reflect a streamlined approach to mid cost AT (up to \$15,000). The new process reduces the number of AT requests that require a quote and/or a formal assessment before we approve it. The OG is supported by a fact sheet with clear information about when you need to get evidence, advice, assessments, or quotes for assistive technology (attached).</p>
<p>Recommendation 7</p> <p>The NDIA amend its assistive technology and plan approval processes, to include a step at the conclusion of the planning meeting to invite participants to provide any outstanding/additional documents to support their assistive technology request, within a specified timeframe, prior to approving the plan.</p>	<p>The NDIA did not accept this recommendation</p>	

<p>Recommendation 8</p> <p>The NDIA should explain to participants the process for having assistive technology included in their plan, either at the planning meeting or at plan implementation, if a participant is unable to provide the information required to support an assistive technology request before the plan is approved.</p> <p>This requirement should be supported by:</p> <ul style="list-style-type: none"> a) clear instructions in the NDIA’s guidance to staff about the need to provide participants with information about the assistive technology approval process, and b) written information for participants about the assistive technology process, e.g. in the form of a fact sheet, update to the Participant booklet and/or on the website. 	<p>Partially Implemented</p>	<p>Implemented</p> <p>The NDIA published Our Guideline - Assistive Technology on the NDIS website in November 2020 and it was updated in May 2022 to reflect a streamlined approach to mid cost AT (up to \$15,000). The new process reduces the number of AT requests that require a quote and/or a formal assessment before we approve it. The OG is supported by a fact sheet with clear information about when you need to get evidence, advice, assessments, or quotes for assistive technology (attached). The assistive technology explained web page on the NDIS website includes an animation about how to get AT in your plan. The participant booklet ‘creating your NDIS plan’ encourages participants to think about whether they need assistive technology before their planning meeting.</p>
<p>Recommendation 9</p> <p>The NDIA provide information to support staff to explain to participants:</p> <ul style="list-style-type: none"> a) that where a plan is in place, a subsequent decision not to include requested supports in the plan is a reviewable decision, and b) the steps to take if a participant disagrees with that decision, including advising participants of their review rights and sending a written notice confirming the decision and their review rights 	<p>Not Implemented</p>	<p>Implemented</p> <p>Our Guideline 'Reviewing Our Decisions' provides information for participants and staff about review rights, and what to do if the participant does not agree with a decision about their plan and was last updated on the 4 July 2022.</p> <p>Additionally, all decision letters sent by the NDIA include an explanation of the decision and information about how to request a review of the decision.</p>

<p>Recommendation 10</p> <p>The NDIA publish on its website its service standards for responding to assistive technology requests.</p>	<p>Implemented</p>	
<p>Recommendation 11</p> <p>The NDIA should amend its assistive technology processes, to require staff to acknowledge receipt of complex assistive technology requests within 10 working days. The acknowledgement should let the participant know whether any further information is required.</p>	<p>The NDIA did not accept this recommendation.</p>	
<p>Recommendation 12</p> <p>The NDIA develop guidance for complaint handling and frontline staff to respond to assistive technology enquiries by:</p> <ul style="list-style-type: none"> a) providing participants with the status and timeframe of a request, and b) escalating the participant’s request if it meets the circumstances outlined in the NDIA’s internal prioritisation matrix for triaging complaints. 	<p>Partially Implemented</p>	<p>In progress</p> <p><i>New Salesforce CRM</i></p> <ul style="list-style-type: none"> a) NDIA is currently in the final stages of building a new CRM system. The new salesforce system, called PACE, will replace the existing Services Australia SAP CRM system. Real time testing of PACE is expected to start by the end of 2022 in Tasmania. <p>PACE includes a centralised enquiries management process. All enquiries are consolidated into a single case. There is a triage tool to capture and workflow enquiries for resolution, including alerts for situations where an enquiry is approaching target timelines. There is a view of open enquiries, with status tracking to inform of progress to resolution</p> <ul style="list-style-type: none"> b) Guidance for Complaint handling staff is continually updated to ensure it is clear and provides the correct steps for escalations via the request for action process. The current “resolving complaints” SOP which refers to use of Risk & Escalation matrix.

<p>Recommendation 13</p> <p>The NDIA should implement an ongoing and regular process to analyse assistive technology complaints and use the data collected to inform improvements to its administrative processes and information provided to participants about assistive technology.</p>	<p>Partially Implemented</p>	<p>Partially Implemented</p> <p>The agency undertakes regular and ongoing analysis of all complaint types, including AT complaints. This analysis and reporting is shared with relevant business teams to inform improvements to processes.</p> <p>The Agency also undertook two deep dive analyses on AT work for the Q3 and Q4 2021. In 2022 the Agency made major changes to improve the way it funds AT. More than 90% of AT the NDIS funds costs less than \$15,000. The threshold for providing a quote for AT increased from \$5,000 to \$15,000 (mid-cost AT). This means participants now only need to provide a quote for Agency approval for AT valued over \$15,000. Complaints about AT have decreased since this change was implemented, from approximately 8 per cent of all complaints to 6 per cent.</p>
<p>Recommendation 14</p> <p>The NDIA measure the average time it takes to decide an assistive technology request in order to calculate its capacity to meet anticipated demand for assistive technology within its service standards.</p>	<p>Not Implemented</p>	<p>Partially Implemented</p> <p>The Participant Service Guarantee metric ‘Vary a plan, after receipt of information relating to a complex quote that triggers a plan amendment process’ sets a timeframe of 50 days and includes Complex Assistive Technology quotes.</p> <p>Ongoing systems developments in 2022-23 will enable better data capture for participant requests.</p>

Attachment B: NDIA response to point in time implementation of recommendations - Actions of the NDIA in relation to Mr C

<p>Recommendation 1</p> <p>We recommend that the NDIA expand on Operational Guideline 4.11 to include the circumstances already outlined in its internal policy documents when a prospective participant should receive priority processing of their access request.</p>	<p>Not implemented</p>	<p>Implemented</p> <p>Our Guideline applying to the NDIS was published in May 2022. The OG is available to staff and applicants to the NDIS and includes information about when we make priority eligibility decisions - When do we make priority eligibility decisions? NDIS</p>
<p>Recommendation 2</p> <p>We recommend that the NDIA encourage prospective participants to provide information relevant to prioritising their access request on its Access Request Form and during the Verbal Access Request process.</p>	<p>Partially implemented</p>	<p>Implemented</p> <p>Our Guideline applying to the NDIS was published in May 2022. The OG is available to staff and applicants to the NDIS and includes information about when we make priority eligibility decisions - When do we make priority eligibility decisions? NDIS. Staff use the OG and the <i>SOP complete a verbal access request</i> to gather the right information to make an access decision, including identifying if the participant meets the criteria for a priority decision.</p> <p>Further steps to complement the existing practices will be seen through the new CRM system which the NDIA is currently in the final stages of building. The new salesforce system, called PACE, will replace the existing Services Australia SAP CRM system. Real time testing of PACE is expected to start by the end of 2022 in Tasmania.</p> <p>PACE supports a number of improvements to service experience for participants, providers and NDIA staff, including more support from local area coordinators and early childhood partners to help people apply to the NDIS, collect the correct evidence and advise about priority access decisions.</p>
<p>Recommendation 3</p>	<p>Implemented</p>	

<p>We recommend that the NDIA update its training materials to:</p> <ul style="list-style-type: none"> a) include learning activities to assist new staff in the National Access Team to identify situations which warrant prioritisation of an access request under Operational Guideline 4.11 b) include content and a learning activity about the withdrawal of an access request under s 26(3) of the National Disability Insurance Scheme Act 2013 (Cth) (the NDIS Act). 		
<p>Recommendation 4</p> <p>We recommend that the NDIA update the ‘access’ section of the Practice Guide—Participants with Justice Interface to:</p> <ul style="list-style-type: none"> a) highlight that prospective participants who have lodged an access request and who are nearing their release date from custody may be more likely to require prioritisation b) suggest that staff refer to Operational Guideline 4.11 when considering access requests from incarcerated prospective participants. 	<p>Partially Implemented</p>	<p>Implemented</p> <p>Our Guideline applying to the NDIS was published in May 2022. The OG is available to staff and applicants to the NDIS and includes information about when we make priority eligibility decisions - When do we make priority eligibility decisions? NDIS</p>
<p>Recommendation 5</p> <p>The NDIA make changes to its Quality Control Audit process to:</p> <ul style="list-style-type: none"> a) include a check that an access request was appropriately prioritised in accordance with the Work Practice— 	<p>Implemented</p>	

Access Overview and Operational
Guideline 4.11.

- b) systematically aggregate and report on data, to be considered by the agency's leadership to identify areas of risk in the access decision-making process.
-



Australian Government
Services Australia

Your Ref: A2224852
Our Ref: EC22-003472

Chief Executive Officer
Rebecca Skinner PSM

Mr Iain Anderson
Commonwealth Ombudsman
GPO Box 442
CANBERRA ACT 2601

Dear Mr ^{Iain}Anderson

Did They Do What They Said They Would? Volume 2

Thank you for your letter of 29 July 2022 in relation to your report *Did They Do What They Said They Would? Volume 2* (Implementation Report).

I appreciate the opportunity for Services Australia (the Agency) to comment on the Implementation Report, as it relates to the Agency's implementation of recommendations made in the *Services Australia's Income Compliance Program* report (ICP report), published by your office in April 2021.

I note your assessment in the Implementation Report provided the implementation status as at 24 September 2021, 3 December 2021 and 10 February 2022 (see paragraph 1.22 of the Implementation Report). I am pleased to advise the Agency has subsequently fully implemented recommendations 1 and 7, and partially implemented recommendation 8. For ease of reference, the most current information on the Agency's implementation of the recommendations is attached.

I appreciate your recognition in the Implementation Report that the Agency was heavily focused on delivering its COVID-19 response to the Australian community during the relevant implementation period.

The Agency contact for this matter is Ms Kathryn Haigh, Chief Counsel. Ms Haigh can be contacted on [REDACTED] or [REDACTED].

Thank you again for the opportunity to comment.

Yours sincerely

Rebecca Skinner
19 September 2022

Services Australia’s response on its implementation of the recommendations made under the April 2021 Commonwealth Ombudsman’s report on the Income Compliance Program, *Did They Do What They Said They Would? Volume 2*

Status of implementation as at 16 September 2022.

Recommendation 1 Implemented	Services Australia fully implemented this recommendation by issuing letters to individuals informing them of their review rights, where they had debts raised under the IC Program and were assessed as not eligible to have their debt zeroed or refunded. Much of the Ombudsman’s feedback on the letters was included, while also considering the results of testing with customers and broader stakeholder views about the readability of the letters.
Recommendation 2 Noted*	Services Australia noted this recommendation.
Recommendation 3 Noted*	Services Australia noted this recommendation.
Recommendation 4 Implemented	Services Australia agreed to identify options to refund individuals’ debts previously affirmed by the AAT with income averaging in the final decision. As at 30 June 2022, 98.9 per cent of these debts were refunded. For the remaining debts, Services Australia is awaiting receipt of the individuals’ bank account details to process the refund.
Recommendation 5 Implemented	Services Australia has guidance for staff so they refer individuals requesting formal review, directly to an ARO.
Recommendation 6 Implemented	Services Australia now finalises SME reviews based on evidence other than averaged ATO information and provides decisions to the relevant individuals.
Recommendation 7 Implemented	Services Australia has fully implemented a process to confirm with customers their net versus grossed up income for compliance activities.
Recommendation 8 Partially Implemented	Services Australia continues to work closely with the Department of Social Services (as social security policy owner) to fully implement this recommendation. Services Australia has publicly clarified that it no longer raises debts relying solely on averaged ATO income information. Services Australia expects it will soon be formally advised by the Department to close the inflight reviews, which are the subject of recommendation 8. Services Australia will then write to affected individuals notifying them of the closure in accordance with recommendation 8. Services Australia will develop this correspondence in consultation with the Office of the Commonwealth Ombudsman, and other relevant stakeholders.
Recommendation 9 Implemented	Services Australia has updated processes and website content, so that reviews of debts raised pre-2015 follow the same process for refunds as under the IC Program.

* Noted since no implementation is required at this time