

# **ACT Ombudsman – 2022–23 Quarter 1 and Quarter 2 Report**

A REPORT ON THE ACTIVITIES OF THE ACT OMBUDSMAN

1 JULY TO 31 DECEMBER 2022

Report by the ACT Ombudsman  
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REPORT NO. **1** | **2023**

# Contents

<b>1. OVERVIEW OF ACT OMBUDSMAN FUNCTIONS</b> .....	<b>3</b>
<b>2. COMPLAINTS MANAGEMENT</b> .....	<b>5</b>
<b>3. ACT POLICING</b> .....	<b>10</b>
<b>4. REPORTABLE CONDUCT SCHEME</b> .....	<b>11</b>
<b>5. FREEDOM OF INFORMATION</b> .....	<b>15</b>
<b>APPENDIX A: COMPLAINTS RECEIVED ABOUT ACT DIRECTORATES AND AGENCIES FROM 1 JULY TO 31 DECEMBER 2022</b> .....	<b>17</b>
<b>APPENDIX B: OUTCOMES OF COMPLAINT INVESTIGATIONS FINALISED FROM 1 JULY TO 31 DECEMBER 2022</b> .....	<b>18</b>

## 1. Overview of ACT Ombudsman functions

The purpose of the Office of the ACT Ombudsman (the Office) is to influence systemic improvement in public administration in the ACT and provide assurance that ACT agencies within our jurisdiction act with fairness and integrity.

We undertake this role through our complaint handling activities, as well as our oversight of:

- the ACT Freedom of Information (FOI) framework
- the ACT Reportable Conduct (RC) Scheme
- ACT Policing
- the ACT Integrity Commission (as the Inspector of the ACT Integrity Commission).

We also provide support to the Judicial Council through the ACT Ombudsman’s role as Principal Officer.

The ACT Ombudsman is currently undertaking an own motion investigation that is due for completion in June 2023.

In January 2022, the ACT Government appointed the ACT Ombudsman as part of the multi-body National Preventive Mechanism for places of detention under the control of the ACT (the ACT NPM), alongside the ACT Inspector of Correctional Services and the ACT Human Rights Commission.

ACT Ombudsman reports are published on our website at [ombudsman.act.gov.au/publications/reports](https://ombudsman.act.gov.au/publications/reports).

The Quarter 1 and Quarter 2 Report for 2022–23 covers the period 1 July to 31 December 2022.

### Implementation of recommendations

In October 2022, the Office published a report titled [Did They Do What They Said They Would? Volume 2](#). The report reviews the implementation of recommendations made by the Commonwealth and ACT Ombudsman in published reports during the period 1 July 2019 to 30 June 2021.

The report includes point-in-time assessments to measure the progress made by agencies to implement recommendations from 3 reports relevant to the ACT:

- [Investigation into the transparency of commercial land valuation decisions in the ACT \(ACT Revenue Office\)](#)
- [Investigation into the Administration of Parole by ACT Corrective Services](#)
- [ACT Policing’s administrative framework for engagement with the ACT Aboriginal and Torres Strait Islander community](#).

Of the 3 reports relevant to the ACT:

- the ACT Revenue Office accepted all 9 recommendations made by the ACT Ombudsman and the report found 3 have been implemented and 6 are partially implemented
- ACT Corrective Services accepted all 15 recommendations made by the ACT Ombudsman and the report found 8 have been implemented and 7 are partially implemented
- ACT Policing accepted 6 of the 9 recommendations made by the ACT Ombudsman (2 were partially accepted and one was noted). The report found all 9 recommendations are partially implemented.

The report found agencies responded to Commonwealth and ACT Ombudsman recommendations by:

- updating policies and procedures
- improving communication with customers
- delivering staff training
- initiating system changes
- improving quality assurance processes, record keeping and service delivery.

## 2. Complaints Management

### Total complaints received

As outlined in Table 1, during the first 6 months of 2022–23 (Quarter 1 and Quarter 2), the Office received 242 complaints. This was a slight decrease of 4 per cent from the 251 complaints received during Quarter 1 and Quarter 2 of 2021–22.

Table 1: ACT complaints received from 1 July to 31 December 2022, compared to 1 July to 31 December 2021

Complaints received from 1 July to 31 December	Q1 and Q2 2021–22	Q1 and Q2 2022–23
ACT directorates and agencies	195	191
ACT Policing	48	33
FOI Act	1	9
ACT Reportable Conduct Scheme	4	7
ACT Integrity Commission	3	2
<b>Total complaints received</b>	<b>251</b>	<b>242</b>

*Note: This data is dynamic and may be updated. For this reason, there may be minor differences when compared to previous published reports.*

### Complaints about ACT directorates and agencies

Of the 191 complaints received about ACT directorates and agencies in Quarter 1 and Quarter 2 of 2022–23:

- 55 related to the Chief Minister, Treasury and Economic Development Directorate
- 48 related to the Community Services Directorate
- 35 related to the Justice and Community Safety Directorate.

Table 2 provides a breakdown of the 224 complaints received about ACT directorates and agencies (191 complaints), and ACT Policing (33 complaints) between 1 July and 31 December 2022.

Table 2: ACT directorate, agency and ACT Policing complaints received 1 July to 31 December 2022

	Number	Percentage of total directorate, agency and ACT Policing complaints*
Chief Minister, Treasury and Economic Development Directorate	55	25%
Community Services Directorate	48	21%
Justice and Community Safety Directorate	35	16%
Independent Statutory Offices	26	12%
Transport Canberra and City Services Directorate	10	5%
Education Directorate	6	<3%
Environment, Planning and Sustainable Development Directorate	4	<2%
Health Directorate	3	1%
Canberra Health Services	3	1%
Territory-owned corporations	1	<1%
Office of the Legislative Assembly	-	-
<b>Total complaints received about ACT directorates and agencies</b>	<b>191</b>	<b>85</b>
ACT Policing	33	15
<b>Total complaints received</b>	<b>224</b>	<b>100</b>

*Note: The complaints in Table 2 are a subset of the total complaints referenced in Table 1. Table 2 does not include complaints about the ACT Integrity Commission, FOI Act or ACT Reportable Conduct Scheme.*

*Note: This data is dynamic and may be updated. For this reason, there may be minor differences when compared to previous published reports.*

*\*Percentages may not add up to 100 per cent due to rounding.*

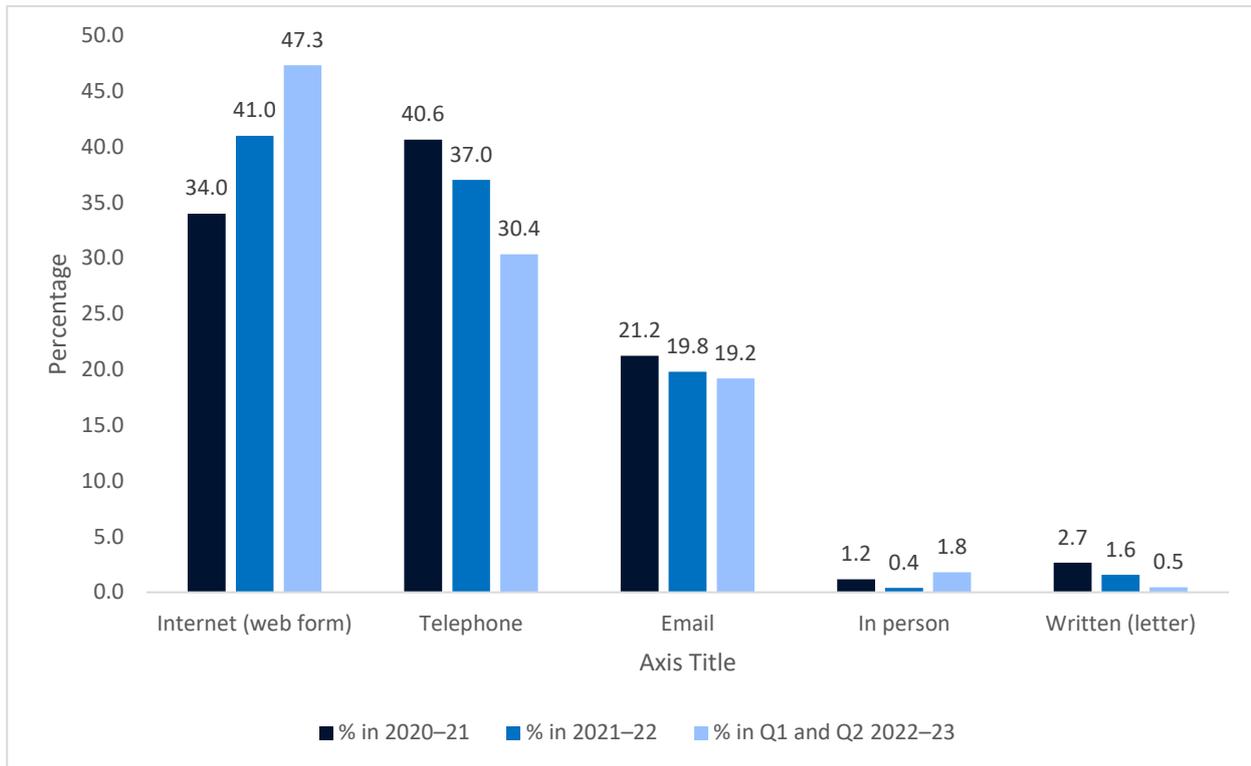
Further details about the number of complaints received about ACT directorates and agencies are provided at **Appendix A**.

## How complaints were received

Figure 1 shows that our online complaint form was the most common method used to contact the Office to make a complaint in Quarter 1 and Quarter 2 of 2022–23 (47 per cent).

Compared to 2020–21 and 2021–22, Figure 1 shows an increase in the use of our online complaint form and a reduction in the use of telephone to make a complaint, a trend that continued in Quarter 1 and Quarter 2 of 2022–23.

Figure 1: How complaints about ACT directorates, agencies and ACT Policing were received during the first six months (Quarter 1 and Quarter 2) of 2022–23, compared to 2020–21 and 2021–22



\*Percentages may not add up to 100 per cent due to rounding.

### Complaints finalised and complaint handling

As outlined in Table 3, the Office finalised 278 complaints relating to ACT directorates, agencies and ACT Policing during Quarter 1 and Quarter 2 of 2022–23:

- 239 complaints finalised about ACT directorates and agencies
- 39 complaints finalised about ACT Policing.

This represents a 43 per cent increase compared to the 195 complaints relating to ACT directorates, agencies and ACT Policing finalised during Quarter 1 and Quarter 2 in 2021–22.

Table 3: ACT complaints finalised from 1 July to 31 December 2022 compared to the same period of 2021–22

	Q1 and Q2 2021–22	Q1 and Q2 2022–23
Complaints finalised about ACT directorates and agencies	159	239
Complaints finalised about ACT Policing	36	39
Complaints finalised about the FOI Act	0	6
Complaints finalised about Reportable Conduct Scheme	8	6
Complaints finalised about ACT Integrity Commission	0	1
<b>Total complaints finalised</b>	<b>203</b>	<b>291</b>

\*This data is dynamic and may be updated. For this reason, there may be minor differences when compared to previous published reports.

Complaints to the Office can result in different outcomes, including a clearer explanation of a decision, an apology, further action taken by the agency, or an expedited process within the agency.

Complaints are assessed to see if they can be resolved quickly or whether a more formal investigation is warranted. Our focus on early resolution aims to provide a better service for complainants and agencies by resolving complaints as quickly as possible.

Several factors determine how we deal with a complaint, including whether:

- the agency concerned had an opportunity to resolve the complaint or an internal review pathway exists
- another oversight body or a tribunal could provide a better outcome
- a reasonable outcome is available for the complainant.

Positive outcomes for complainants can be achieved with or without a formal investigation. For example, there are times where we can provide a better explanation to the complainant based on our knowledge of the processes of directorates and agencies.

## Outcomes of investigated complaints

During Quarter 1 and Quarter 2 of 2022–23, the Office finalised 30 formal investigations about ACT directorates, agencies and ACT Policing. For many of these matters, finalised investigations achieved better explanations by the ACT Ombudsman and/or a decision was changed or reconsidered.

The table at **Appendix B** provides further details of the outcomes of complaint investigations finalised during Quarter 1 and Quarter 2 of 2022–23, broken down by ACT directorates, agencies and ACT Policing. As reported in **Appendix B**, more than one outcome can be achieved per finalised investigation.

## Performance against service standards

Our Office has service standards which we apply to complaints received in relation to government bodies in both the Commonwealth Ombudsman’s jurisdiction and the ACT Ombudsman’s jurisdiction.

We aim to resolve 55 per cent of all such complaints within 7 days, 85 per cent within 40 days, and 90 per cent within 90 days. We are usually able to achieve this timeframe for routine or simple complaints, but more complex complaints may take longer. This means we may not always meet the 55 per cent target during periods where we receive a higher proportion of complex complaints.

In Quarter 1 and Quarter 2 of 2022–23, 19 per cent of complaints finalised about ACT directorates, agencies and ACT Policing were closed in 7 days, with 49 per cent of complaints finalised in 40 days, 54 per cent of complaints finalised in 90 days and 99 per cent of ACT complaints finalised in 12 months.

## Complaint trends

The ACT agency for which we received the highest number of complaints during Quarter 1 and Quarter 2 of 2022–23 was ACT Corrective Services with 34 complaints, closely followed by Housing ACT with 33 complaints, and Access Canberra with 28 complaints.

### *ACT Corrective Services complaints received*

During Quarter 1 and Quarter 2 of 2022–23, the Office received 34 complaints relating to ACT Corrective Services (which includes the Alexander Maconochie Centre (AMC)). This represents a decrease of 11 per cent compared to the 38 complaints received during the same period of 2021–22.

Key issues identified in complaints relating to the AMC during Quarter 1 and Quarter 2 of 2022–23 included:

- medical and health care
- detainees accounts
- visitations
- smoking.

Approximately 60% of all complaints in this period raised multiple issues.

***Housing ACT complaints received***

During Quarter 1 and Quarter 2 of 2022–23, the Office received 33 complaints about Housing ACT. This represents a decrease of 39 per cent compared to the 54 complaints received during Quarter 1 and Quarter 2 of 2021–22.

The most common issues raised in complaints relating to Housing ACT during Quarter 1 and Quarter 2 of 2022–23 included:

- maintenance and repair
- anti-social behaviour and neighbourhood disputes
- administration of public housing waitlists/requests for transfer
- financial claims – payments and charges.

***Access Canberra complaints received***

During Quarter 1 and Quarter 2 of 2022–23, the Office received 28 complaints about Access Canberra. This represents a decrease of 18 per cent compared to the 34 complaints received during Quarter 1 and Quarter 2 of 2021–22.

The most common issues raised in complaints relating to Access Canberra during Quarter 1 and Quarter 2 of 2022–23 included:

- licencing and registrations
- building and property issues and approvals
- parking and traffic infringement notices.

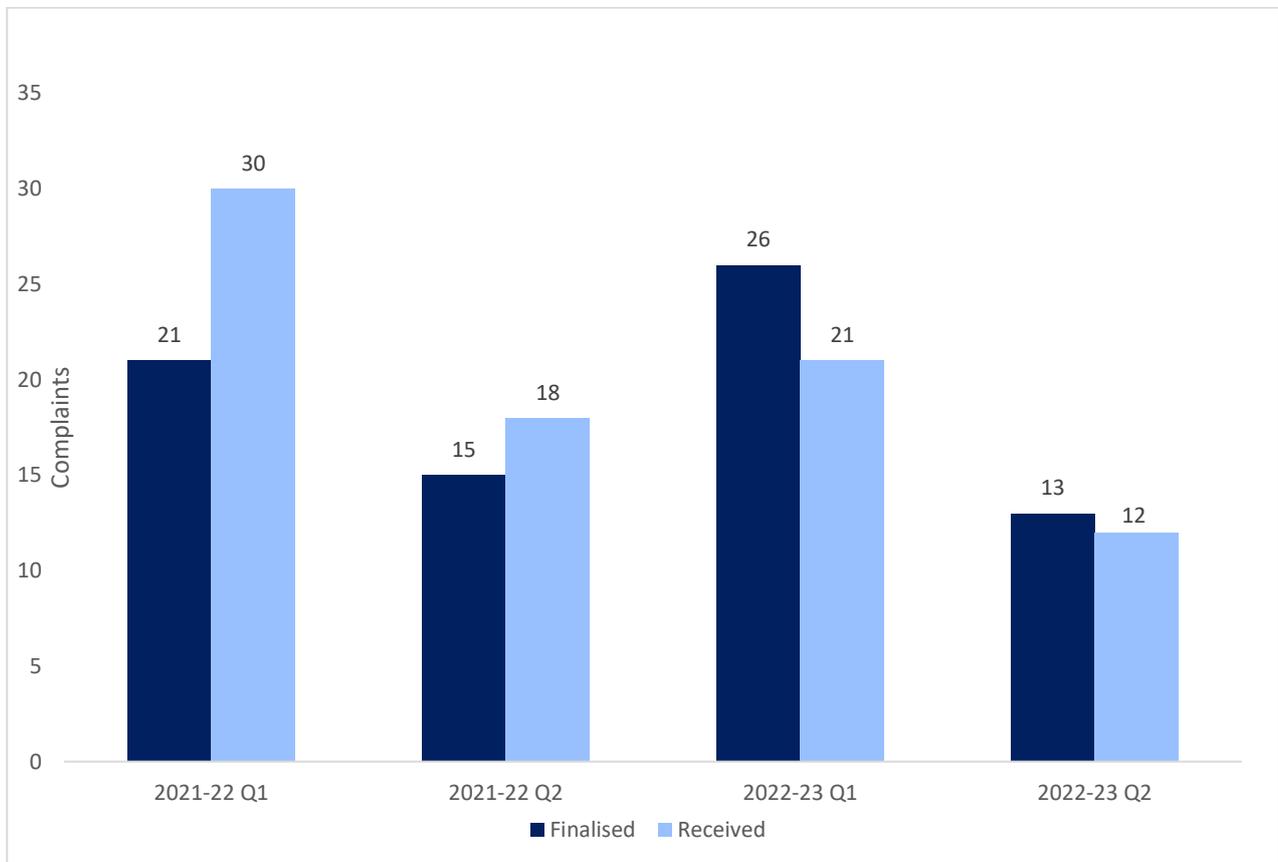
### 3. ACT Policing

The Office receives and considers complaints about ACT Policing. As outlined in Figure 2, the Office received 33 complaints about ACT Policing and finalised 39 complaints during Quarter 1 and Quarter 2 of 2022–23. This represents a decrease of 31 percent in complaints received compared to the 48 complaints received in Quarter 1 and Quarter 2 of 2021–22.

Of the complaints finalised in Quarter 1 and Quarter 2 of 2022–23, 3 were the subject of formal investigations.

Analysis of complaints received about ACT Policing in Quarter 1 and Quarter 2 of 2022–23 showed the most common topics included allegations of inappropriate action and failure to take action.

Figure 2: ACT Policing complaints received and finalised in Quarter 1 and Quarter 2 of 2021–22 and Quarter 1 and Quarter 2 of 2022–23



The Office is also responsible for inspecting ACT Policing records related to the use of certain covert and intrusive powers under ACT legislation. The Office conducted an inspection of ACT Policing’s compliance with legislative requirements relating to the Child Sex Offenders Register (CSOR) in August 2022. The result of the CSOR inspection will be included in the ACT Ombudsman’s 2022–23 annual report. The next inspections of ACT Policing under the *Crimes (Surveillance Devices) Act 2010* (ACT) and the *Crimes (Controlled Operations) Act 2008* (ACT) will occur in April 2023.

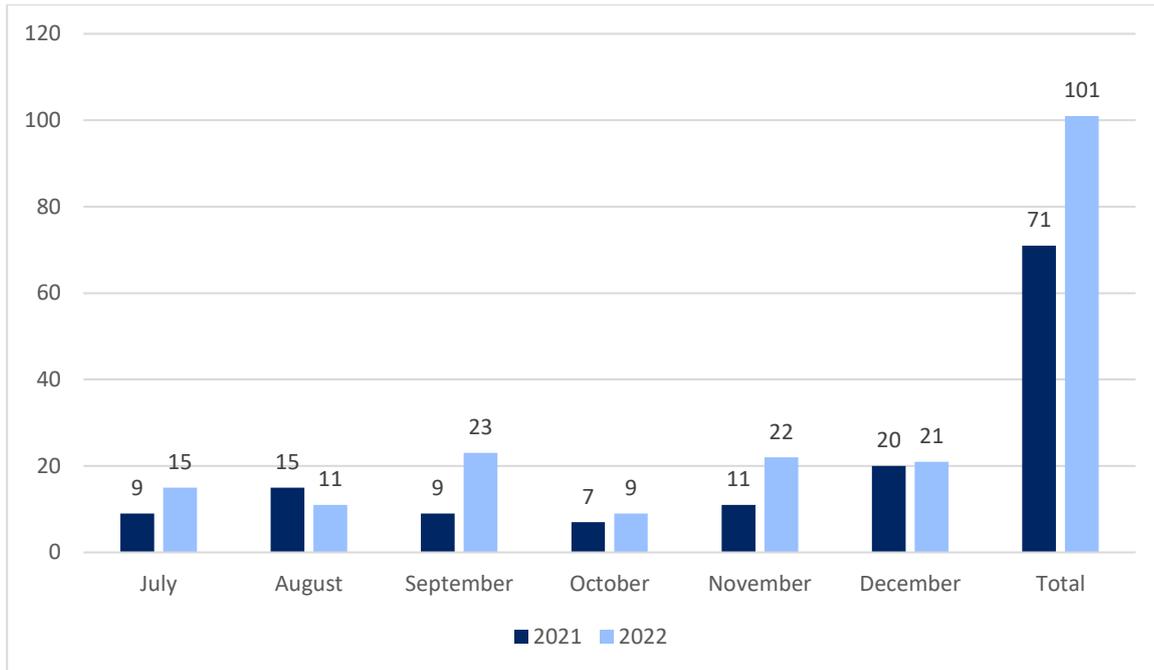
## 4. Reportable Conduct Scheme

### Notifications received

During Quarter 1 and Quarter 2 of 2022–23, the Office received 101 notifications from designated entities (entities) about allegations of reportable conduct, with 17 of these notified to ACT Policing by entities.

As outlined in Figure 3, this is a 42 per cent increase in the reporting of notifications compared to Quarter 1 and Quarter 2 of 2021–22. COVID-19 restrictions were in place during the previous comparable period. It is likely this increase is a consequence of restrictions being lifted.

Figure 3: Notifications received from 1 July to 31 December 2022, compared to 1 July to 31 December 2021



The largest number of notifications received were from government and non-government schools (54) followed by education and care service providers (23) and then kinship and foster care (13 reports).

Table 4: Notifications received from 1 July to 31 December 2022, by sector

Sector	Number	Percentage*
Government and non-government schools	54	53%
Education and care service provider	23	22%
Kinship and foster care	13	13%
ACT Directorates	4	4%
Residential care organisations	2	2%
Religious organisation	1	1%
Other (No sector info – Out of Jurisdiction)	4	4%
<b>TOTAL</b>	<b>101</b>	<b>100</b>

\*Percentages may not add up to 100 per cent due to rounding.

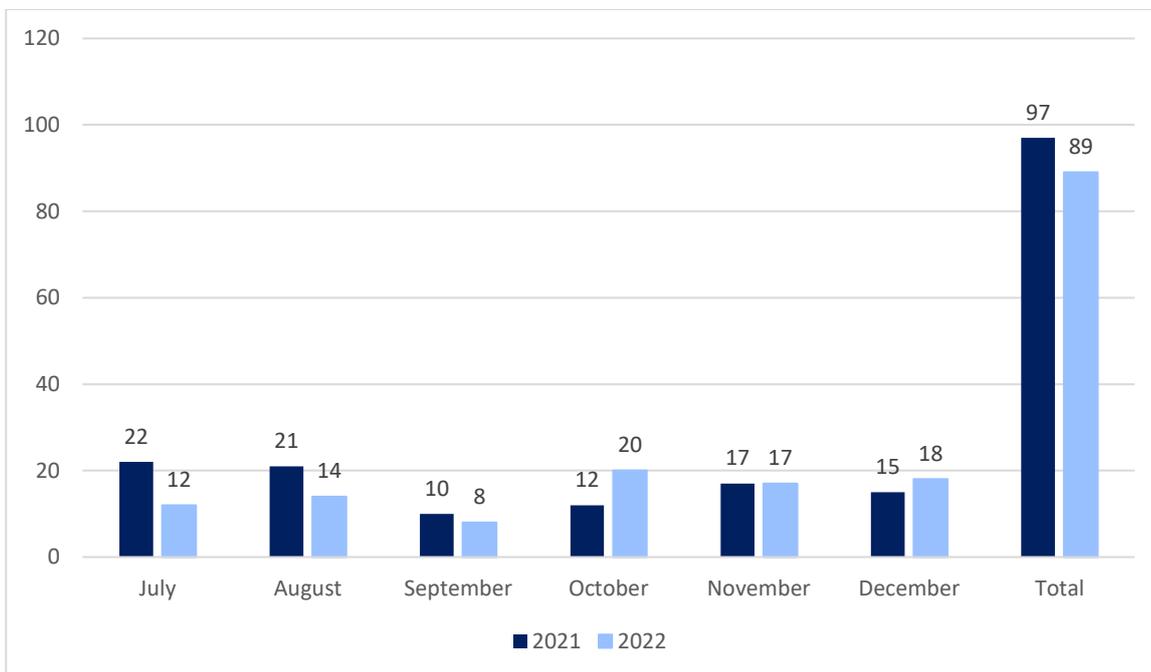
## Designated entity compliance

Entities must lodge a notification under s17G of the *Ombudsman Act 1989* within 30 days of the entity becoming aware of a reportable conduct allegation. During Quarter 1 and Quarter 2 of 2022–23, entity compliance with the 30 calendar days was 78 per cent. This is an improvement compared to 68 per cent for 2021–22. During the COVID-19 pandemic and restrictions, entities told us about difficulties in managing resources and meeting the 30 day legislated timeframe. The Office worked with entities to increase compliance once the restrictions were lifted.

## Reports finalised

During Quarter 1 and Quarter 2 of 2022–23, as outlined in Figure 4 below, the Office finalised 89 matters. This represents an 8 per cent decrease in finalised cases compared to Quarter 1 and Quarter 2 of 2021–22.

Figure 4: Reports finalised from 1 July to 31 December 2022 compared to 1 July to 31 December 2021

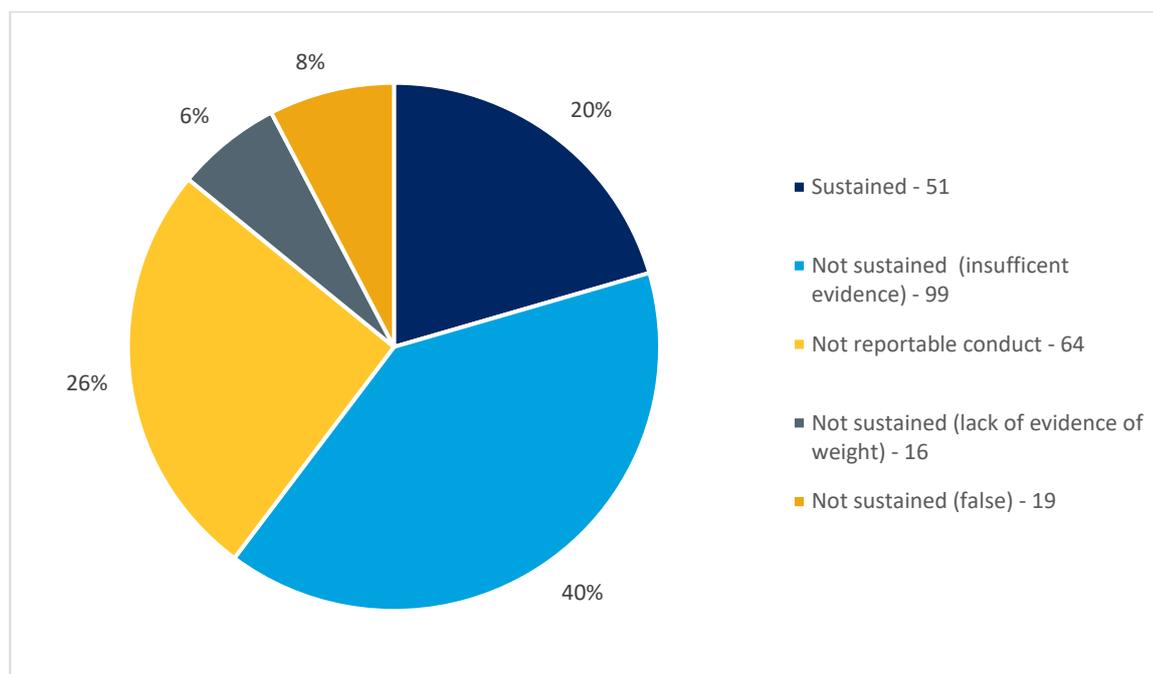


Entities must report the results of the investigation when completed and any taken or proposed action.

An investigation into alleged reportable conduct may find the allegation unsustainable based on insufficient evidence or lack of evidence of weight. In some cases, an allegation may be found to be false or may not meet the definition of reportable conduct.

The investigation outcomes of each allegation and the action taken by entities during Quarter 1 and Quarter 2 of 2022–23 are summarised in Figure 5 and Table 5. A notification may contain multiple allegations, each having a finding and action recorded.

Figure 5: Investigation outcomes reported by entities from 1 July to 31 December 2022



\*Percentages may not add up to 100 per cent due to rounding.

Table 5: Final investigation actions taken by entities from 1 July to 31 December 2022

Action	Number	Percentage*
No action after the investigation process	77	30
Performance monitoring or managing	57	22
No info	42	16
Counselling	36	14
Training	19	7
Other forms of disciplinary action as per employer	14	6
Letter of warning	6	2
Termination	4	2
Transfer/demotion	1	1
<b>TOTAL</b>	<b>256</b>	<b>100</b>

*Note: an investigation may contain more than one allegation, which may result in more than one finding and action.*

\*Percentages may not add up to 100 per cent due to rounding.

## Performance against service standards

The Office has service standards for the performance of our functions under the Reportable Conduct Scheme.

When we receive a notification from an entity about an allegation of reportable conduct (s 17G notification) we conduct an assessment of the organisation’s initial response against criteria including reporting to other bodies, risk assessment, and investigation plan. This allows the entity to consider our feedback during its investigation. We aim to do this within 7 days in 80 per cent of cases.

During Quarter 1 and Quarter 2 of 2022–23, we assessed 95.8 per cent of initial notifications within 7 days.

When we receive a final report from an entity following its investigation into reportable conduct allegations (s 17J report), we consider whether there was a proper investigation, appropriate action taken and whether we need further information from the entity. This gives the entity reasonable opportunity to act on our feedback or provide further information. We aim to complete this within 28 days in 80 per cent of cases.

During Quarter 1 and Quarter 2 of 2022–23, we completed 84.9 per cent of these assessments within this timeframe.

## 5. Freedom of Information

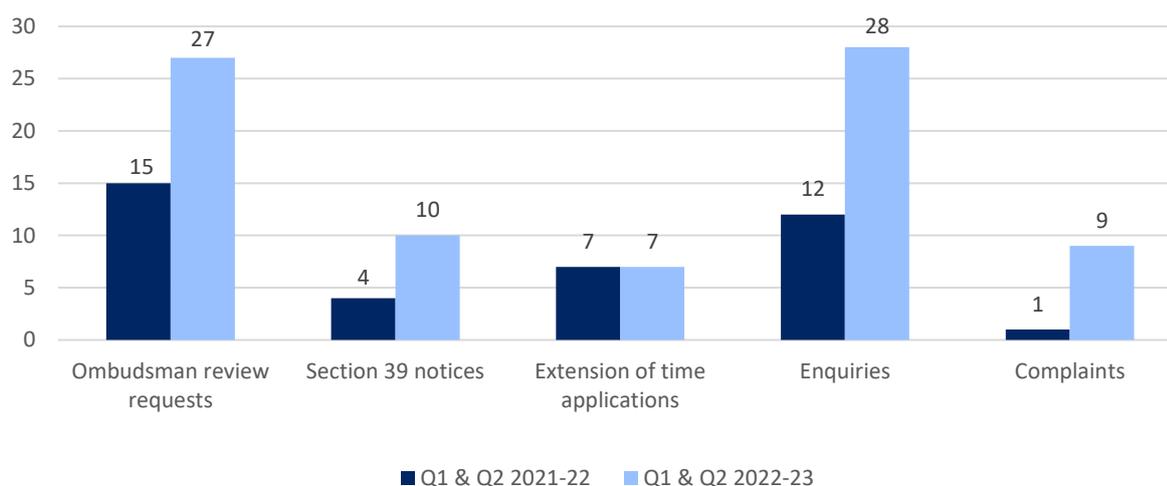
### FOI contacts received

The Office received 81 contacts about our role under the FOI Act in Quarter 1 and Quarter 2 of 2022–23. This represents a significant increase on the 39 contacts received in Quarter 1 and Quarter 2 of 2021–22.

As outlined in Figure 6, compared to Quarter 1 and Quarter 2 of 2021–22, this represents a 108 per cent increase in the number of contacts received. In Quarter 1 and Quarter 2 of 2022–23, this comprised:

- 27 applications for Ombudsman review
- 10 section 39 notices (notices given to the Ombudsman to advise that a decision on an access application was not made in time)
- 7 extension of time requests
- 28 enquiries
- 9 complaints.

Figure 6: FOI contacts received from 1 July to 31 December 2022 compared to 1 July to 31 December 2021



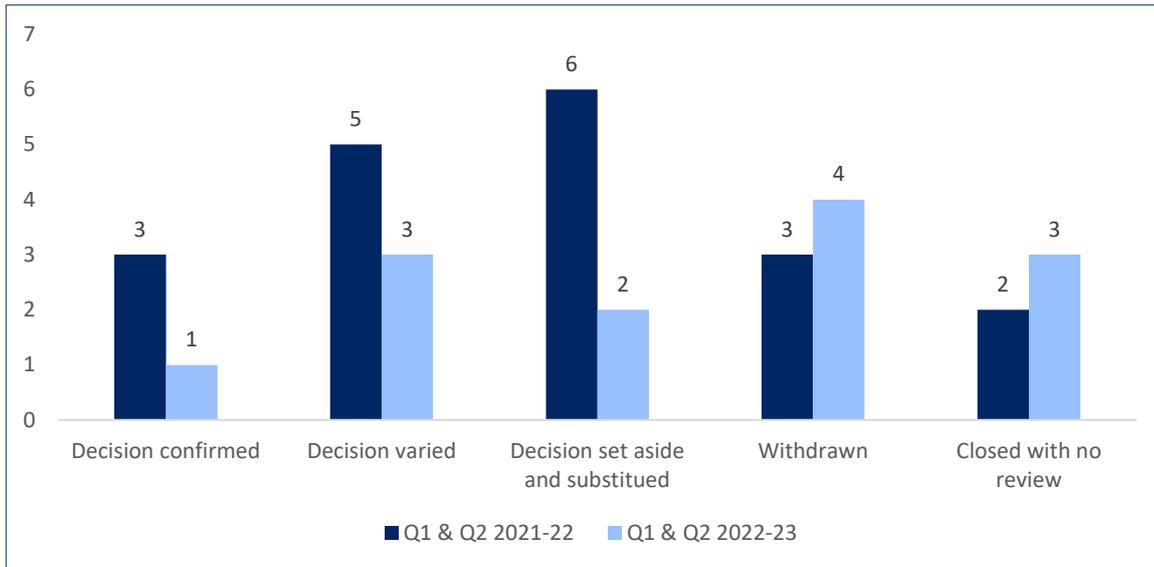
### Finalised Ombudsman reviews

As shown in Figure 7, the Office finalised 13 Ombudsman reviews in Quarter 1 and Quarter 2 of 2022–23. This was a decrease compared to the 19 reviews finalised in Quarter 1 and Quarter 2 of 2021–22.

The outcomes of these 13 Ombudsman reviews were:

- the original decision was confirmed in 1 case
- the original decision was varied in 3 cases
- the original decision was set aside and substituted with a new decision in 2 cases
- 4 applications were withdrawn by the applicant
- 3 applications were finalised without review (for example, where the Office found there were no reasonable prospects of the original decision changing or where the matter was otherwise resolved).

Figure 7: FOI review requests finalised from 1 July to 31 December 2022 compared to 1 July to 31 December 2021



### Performance against service standards

Our Office has service standards for our FOI review applications. Our ability to meet service standards is expected to vary depending on the number of cases finalised through informal resolution processes and the complexity of matters.

In Quarter 1 and Quarter 2 of 2022–23, we did not meet the 3 service standards in relation to the 13 matters that were finalised:

- 8 per cent of FOI review matters were finalised within 6 weeks (below the standard of 30 per cent)
- 31 per cent were finalised in 12 weeks (below the standard of 60 per cent)
- 54 per cent were finalised in 6 months (below the standard of 95 per cent).

This reflects the complexity of some review matters that were considered in this reporting period.

FOI review matters can generally be finalised in 6 weeks where informal resolution is successful.

Where a formal decision is required, routine matters are expected to take 12 weeks to finalise with complex matters taking longer. Several complex matters were finalised in this half.

### Published decisions

As of 31 December 2022, we have published 92 decisions on the ACT Ombudsman website since commencing the ACT FOI oversight function.

Of these decisions, 7 were published during Quarter 1 and Quarter 2 of 2022–23. Publication of decisions provides agencies and applicants with guidance on the FOI Act, including the application of the public interest test.

## Appendix A: Complaints received about ACT directorates and agencies from 1 July to 31 December 2022

Directorate / Agency	Total received	Total finalised*	Finalised with investigation	Finalised without investigation
<b>Canberra Health Services</b>	<b>3</b>	<b>3</b>	<b>0</b>	<b>3</b>
<b>Chief Minister, Treasury and Economic Development Directorate</b>	<b>55</b>	<b>67</b>	<b>8</b>	<b>59</b>
Access Canberra	28	33	4	29
ACT Revenue Office	12	13	1	12
Canberra Institute of Technology	4	6	1	5
CMTEDD – other	3	6	0	6
University of Canberra	7	8	1	7
WorksafeACT	1	1	1	0
<b>Community Services Directorate</b>	<b>48</b>	<b>68</b>	<b>11</b>	<b>57</b>
Housing ACT	33	56	11	45
Community Services - other agencies	15	12	0	12
<b>Education Directorate</b>	<b>6</b>	<b>9</b>	<b>0</b>	<b>9</b>
<b>Environment, Planning and Sustainable Development Directorate</b>	<b>4</b>	<b>5</b>	<b>1</b>	<b>4</b>
<b>Health Directorate</b>	<b>3</b>	<b>4</b>	<b>0</b>	<b>4</b>
<b>Justice and Community Safety Directorate</b>	<b>35</b>	<b>39</b>	<b>4</b>	<b>35</b>
ACT Corrective Services	34	39	4	35
Justice and Community Safety - other	1	0	0	0
<b>Transport Canberra and City Services Directorate</b>	<b>10</b>	<b>21</b>	<b>3</b>	<b>18</b>
<b>Territory-owned Corporations</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>1</b>
<b>Independent statutory offices</b>	<b>26</b>	<b>22</b>	<b>0</b>	<b>22</b>
ACT Court or Tribunal	5	5	0	5
ACT Human Rights Commission	7	4	0	4
ACT Teacher Quality Institute	0	1	0	1
Legal Aid ACT	5	4	0	4
Public Trustee and Guardian	9	8	0	8
<b>Office of the Legislative Assembly</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>1</b>
ACT Legislative Assembly	0	1	0	1
<b>Total ACT Government</b>	<b>191</b>	<b>240</b>	<b>27</b>	<b>213</b>
<b>ACT Policing</b>	<b>33</b>	<b>39</b>	<b>3</b>	<b>36</b>
<b>Total ACT</b>	<b>224</b>	<b>279</b>	<b>30</b>	<b>249</b>

\* Data on complaints finalised includes complaints received from 1 July to 31 December 2022, as well as complaints received in prior months.

Note: This data is dynamic and may be updated.

## Appendix B: Outcomes of complaint investigations finalised from 1 July to 31 December 2022

Directorate / Agency	Investigations finalised	Action Expedited	Apology	Better explanation by Ombudsman	Change to law, policy or practice	Decision changed or reconsidered	Remedy provided by Agency	Other financial remedy	No remedy	Total positive remedies achieved
<b>Chief Minister, Treasury and Economic Development Directorate</b>	<b>8</b>	<b>1</b>	<b>1</b>	<b>4</b>	<b>1</b>				<b>3</b>	<b>7</b>
Access Canberra	4			2					2	2
ACT Revenue Office	1	1	1	1						3
Canberra Institute of Technology	1								1	
University of Canberra	1			1						1
Worksafe ACT	1				1					1
<b>Community Services Directorate</b>	<b>11</b>				<b>2</b>	<b>5</b>	<b>1</b>		<b>3</b>	<b>8</b>
Housing ACT	11				2	5	1		3	8
<b>Environment, Planning and Sustainable Development Directorate</b>	<b>1</b>			<b>1</b>						<b>1</b>
<b>Justice and Community Safety Directorate</b>	<b>4</b>	<b>1</b>		<b>1</b>		<b>1</b>	<b>1</b>		<b>1</b>	<b>4</b>
ACT Corrective Services	4	1		1		1	1		1	4
<b>Transport Canberra and City Services Directorate</b>	<b>3</b>	<b>1</b>						<b>1</b>	<b>2</b>	<b>2</b>
<b>Total ACT Government</b>	<b>27</b>	<b>3</b>	<b>1</b>	<b>6</b>	<b>3</b>	<b>6</b>	<b>2</b>	<b>1</b>	<b>9</b>	<b>22</b>
<b>ACT Policing</b>	<b>3</b>			<b>3</b>		<b>1</b>			<b>1</b>	<b>4</b>
Australian Federal Police – ACT Policing	3			3		1			1	4
<b>Total ACT</b>	<b>30</b>	<b>3</b>	<b>1</b>	<b>9</b>	<b>3</b>	<b>7</b>	<b>2</b>	<b>1</b>	<b>10</b>	<b>26</b>

*Note: More than one outcome can be achieved following a complaint investigation.*

*Note: This data is dynamic and may be updated.*