



Annual Report

January 2012 to 30 June 2012

1. Commissioner's Foreword and Overview

I am delighted to present the Standing Council on School Education and Early Childhood with the first Annual Report on the exercise of my functions as the Education & Care Services Ombudsman, National Education & Care Services FOI & Privacy Commissioners.

In the first six months of operation I have concentrated my efforts on establishing the office and developing guidelines and administrative procedures to apply the provisions of the Education and Care Services National Law that apply to me. These include the:

1. Development of a website www.necsombudsmanprivacy.edu.au providing information for the public on my responsibilities and role and information on how to make an enquiry or complaint or request a review of an freedom of information decision.
2. Information sheets directed to the Australian Children's Education and Care Quality Authority and the Regulatory Authorities outlining my expectations about their obligations under, and the operation of, the Freedom of Information Act 1982, the Privacy Act 1988 and the Ombudsman Act 1976 within the National Quality Framework for Early Childhood Education and Care.
3. Guidelines for the receipt and resolution of complaints.
4. Clarification of the National Law and Regulations to enable development of effective implementation.
5. Operating manuals for the conduct of the three areas of my responsibility under the Education & Care services National Law (ombudsman, freedom of information and privacy).

I have discussed my role with the Standing Council on School Education and Early Childhood Early Childhood Working Group and attended quarterly meetings with the CEO and staff of the Australian Children's Education and Care Quality Authority to exchange views and information on the implementation of my responsibilities. My office has met regularly with Mr Steve Metcalfe, Secretary Standing Council on Education and his staff. I am very grateful to all concerned in providing feedback to our policy and procedures documents mentioned above.

I would like to take this opportunity to thank staff from SCSEEC, Department of Education, Employment and Work Place Relations and Education Services Australia for assisting with the setting up of my office.

Yours sincerely

Dr Diane Sisely

The Education and Care Services Ombudsman, National Education and Care Services Freedom of Information Commissioner and National Education and Care Services Privacy Commissioner (ECISOFOI&PC) receives complaints and assists people who may have been treated unfairly or inappropriately by the Australian Children’s Education and Care Quality Authority (ACECQA) or the State and Territory Government Regulatory Authorities. The Regulatory Authorities approve, monitor and quality assess education and care services for children. ACECQA promotes a nationally consistent regulatory approach.

2. Powers and Responsibilities

Work has been undertaken to clarify and operationalise the powers and responsibilities of the ECISOFOI&PC

2.1 Education and Care Services Ombudsman (ECSO)

The ECSO has the responsibility to receive and resolve complaints concerning “action taken by a prescribed authority that relates to a matter of administration”¹. The ‘prescribed authority’ is the National Authority (ACECQA).²

If a complaint is about an agency or body other than ACECQA, the complaint is not within the jurisdiction of the ECSO.³

Complaints about how a Regulatory Authority has exercised its powers or functions under the National Law or Regulations (apart from FOI and privacy matters), should be directed to the Ombudsman in the State or Territory in which Regulatory Authority is located. For example, complaints about the Regulatory Authority in Victoria should be made to Ombudsman Victoria, complaints about the Regulatory Authority in New South Wales should be made to the NSW Ombudsman.

The ECSO has power to deal with matters of administration, apart from specific matters relating to freedom of information and privacy. It extends to anything which might be regarded as reasonably incidental to the performance of administrative functions. It does not have to be an allegation of something sufficiently serious to be described as ‘maladministration’, but merely about any administrative action.

Action taken by ACECQA (or by an officer or employee) that relates to a matter of administration can include:

- making of a decision or recommendation;
- formulation of a proposal;
- failure or refusal to take any action, to make a decision or recommendation

¹ Section 5(1)(a) and (b), Ombudsman Act.

² See combination of s 282, National Law and Reg 222, National Law Regulation.

³ A complainant with a complaint about action by a Regulatory Authority should be referred to the Ombudsman or equivalent in the relevant participating jurisdiction.

2.2 National Education and Care Services Freedom of Information Commissioner (NECSFOIC)

The NECSFOIC has power to deal with written complaints about the performance of functions, or the exercise of powers, under the FOI Act by one or more of:

- (a) the National Authority (ACECQA); or
- (b) a Regulatory Authority from a participating jurisdiction.

From 1 January 2012, the *Freedom of Information Act 1982* (Commonwealth) ("FOI Act") applies as the law of each State and Territory for the purposes of the National Quality Framework. Each State and Territory has for that purpose adopted in its jurisdiction the FOI Act as modified by the *Education and Care Services National Regulations*.

This means that the FOI Act (as modified) applies to ACECQA and each Regulatory Authority. Those bodies are bound by and must comply with the requirements of the FOI Act (as modified) when dealing with formal requests for access to documents under freedom of information. Any person has a right to seek from ACECQA or each Regulatory Authority access to documents of those agencies under the FOI Act.

Under the FOI Act that means that from 1 January 2012 ACECQA and each of the Regulatory Authorities must do the following:

- (a) process requests for access to documents in accordance with the FOI Act;
- (b) grant full or partial access to any documents sought under the FOI Act unless they are exempt or contain information that would reasonably be regarded as irrelevant to a request;
- (c) in making any decisions under the FOI Act, properly advising applicants of their review rights in any statement of reasons for decision;
- (d) conduct internal reviews of access refusal decisions in accordance with the FOI Act;
- (e) comply with the information publication scheme obligations contained in Part II of the FOI Act;
- (f) process requests for amendment to personal information in accordance with the FOI Act;
- (g) apply and interpret the provisions of the FOI Act consistent with the objects of the FOI Act;
- (h) use their best endeavours to assist the NECSFOIC to make a decision in relation to any review of reviewable decision;
- (i) assist the NECSFOIC with any preliminary inquiries that might be made in determining whether to entertain any review application or a complaint;

- (j) provide an adequate statement of reasons under s26 of the FOI Act if the NECSFOIC believes that no statement or an inadequate statement of reasons was provided;
- (k) comply with decisions made by the NECS FOI Commissioner (unless review is sought on the merits or an appeal made on a question of law);
- (l) comply with any notice to produce or notice to appear issued by the NECS FOIC under the FOI Act;
- (m) implement any recommendations made by the NECSFOIC as a result of an investigation of a complaint.

2.3 National Education and Care Services Privacy Commissioner (NECSPC)

The NECPC has power to deal with written complaints made alleging an interference with privacy arising from an alleged breach of the Information Privacy Principles in the Privacy Act by one or more of:

- (a) the National Authority (ACECQA); or
- (b) a Regulatory Authority from a participating jurisdiction.⁴

An act or practice is an interference with privacy if it breaches any of the Information Privacy Principles. A complaint will be within the jurisdiction of the NECSPC if it is in writing and alleges such a breach.

From 1 January 2012, the *Privacy Act 1988* (Commonwealth) ("Privacy Act") applies as the law of each State and Territory for the purposes of the National Quality Framework. Each State and Territory has for that purpose adopted in its jurisdiction the Privacy Act as modified by the *Education and Care Services National Regulations*.

This means that the Privacy Act (as modified) applies to ACECQA and each Regulatory Authority. Those bodies are bound by and must comply with the requirements of the Privacy Act (as modified) when dealing with personal information. 'Personal information' is defined to mean:

"information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion⁵"

Under the Privacy Act this means that from 1 January 2012 ACECQA and each of the Regulatory Authorities are affected by requirements in relation to how they collect, use, store and otherwise handle personal information about individuals.

They must comply with 11 Information Privacy Principles (IPPs) set out in the Privacy Act dealing with:

- the manner and purpose of collection of personal information;
- the accuracy of personal information before use;

⁴ See combination of s 263, National Law and Reg 199, National Law Regulation.

⁵

- secure storage of personal information;
- appropriate use or disclosure of personal information;
- access to and amendment of personal information.⁰

They must not do an act or engage in a practice that breaches any of the IPPs in relation to personal information about an individual, otherwise that is an interference with privacy.

In addition, the Privacy Act provides clarification and extension of the law relating to obligations of confidence that might arise in relation to personal information provided to ACECQA or a Regulatory Authority.

Therefore, ACECQA and each Regulatory Authority and their officers and employees must become familiar with the requirements of the Privacy Act and the IPPs in their handling of personal information under the National Quality Framework.

3. Amendments required to the Education and Care Services National Law Act and Regulations

During the year I sought legal advice to clarify several issues relating to the establishment of my office, the following.

- (a) The need to establish an Office of the National Education and Care Services FOI Commissioner which in turn required the following considerations:
 - what is required to formally establish that office;
 - if any amendments are required to *the Education and Care Services National Law Act 2010* or *Education and Care Services Regulations* to establish the Office; and
 - what immunity from liability is provided to the Commissioner and staff by the Act, Regulations or other legislation.
- (b) The need to establish an Office of the Education and Care Services Privacy commissioner, which required the following considerations:
 - what is required to formally establish that office;
 - if amendment is required to the Act or the regulations to establish the office; and
 - what immunity from liability is provided to the Commissioner and staff by the Act, Regulations or other legislation.
- (c) Any other amendments required to the Act or the Regulations to give effect to the Office of the National Education and Care Services FOI and Privacy Commissioners.

Separate advice has been provided to the Standing Council on School Education and Early Childhood on these issues.

4. Development of Guidelines and Complaint Handling Processes

Work has been undertaken to develop information about the role and functions of my office and guidelines have been developed to assist this work. The draft Complaint Handling Process Summary & Guideline is attached (Attachment 1).

A diagram to assist understanding of the complaint handling process is also attached (Attachment 2).

A website has been established to provide information about my role and the work of the office for agencies and the public www.necsombudsmanprivacy.edu.au

5. Complaints

There were no complaints nor requests for review received during the reporting period. It is expected that complaints and requests for review will commence to be received during the 2012/21013 following the assessment of Approved Services against the National Quality Standard and National Regulations by the Regulatory Authorities.

6. Financial Statements

The financial report for my office for the period ending 30 June 2012 has been prepared by Educational Services Australia and is found at Attachment 3. This financial report has been audited and the auditors report is also found at Attachment 3.

Attachment 1

Complaint Handling Process (DRAFT)

The Education and Care Services Ombudsman, National Education and Care Services Privacy Commissioner, and Freedom of Information Commissioner (“referred to collectively as **ECSO FOI & PC**”) has established a complaint handling process to streamline the efficient handling of complaints received under the Education and Care Services National Law (“**National Law**”).

The process is represented by the diagram below.

Complaint

An approach may be made by telephone or in writing (fax, email, letter, complaint form, etc). If that approach is not a complaint, but something else like an inquiry or request for services, you will be directed as far as practicable to the person or body who may be able to provide the information or services your seek.

If a complaint is made, the ECS Ombudsman will determine whether or not the complaint can be considered under the National Law. If not, as far as practicable, you will be told where you may be able to pursue that complaint.

About who and what

The ECS Ombudsman can consider:

1. Privacy or freedom of information complaints *only* about:
 - (c) the National Authority (ACECQA); or
 - (d) a Regulatory Authority from a participating jurisdiction.⁶
2. Complaints more generally about action taken or not taken that relates to matters of administration *only* in relation to the National Authority (ACECQA).

The ECS Ombudsman will usually not entertain a complaint if it was not first raised by you with the relevant agency about which you have a complaint.

In writing

A complaint must be written for the ECS Ombudsman to consider it. If it is not made in writing, the ECS Ombudsman will provide you reasonable assistance to set out the complaint in writing.

Preliminary inquiries and assessment

The ECS Ombudsman will conduct a preliminary assessment to determine whether or not to entertain or investigate the complaint (or investigate further). For example, the ECS Ombudsman can exercise a discretion not to entertain a complaint if:

- no complaint was first made to the relevant agency;

⁶ See combination of s 263, National Law and Reg 199, National Law Regulation.

- the events complained about occurred more than 12 months after you became aware of them;
- the complaint is frivolous, vexatious, misconceived, lacking in substance or not made in good faith;
- another remedy is available elsewhere;
- the agency concerned is dealing with the complaint or has not had an adequate opportunity to deal with it.

In order to do this preliminary assessment, the ECS Ombudsman may conduct preliminary inquiries including:

- contacting you to clarify allegations made or information provided, or obtain documentary evidence (including a copy of any complaint to the agency and any response from the agency);
- researching relevant laws and other information available;
- considering similar cases;
- obtaining legal advice;
- deciding whether the complaint or parts will or will not be investigated;
- contacting the agency to obtain its version of events, additional information or relevant documents;
- identifying disagreements in the facts or about the lawfulness or reasonableness of the agency's actions;
- seek information from others if necessary;
- consider and discuss with the agency possible action;
- try to resolve the matter using conciliation or other methods of dispute resolution.

Formal investigation

If the ECS Ombudsman decides to investigate, there are some formal steps which must be taken involving notification of the agency concerned. If an adverse finding is likely, the agency concerned will be given an opportunity to make submissions about it.

Investigations are confidentially conducted, but you will be kept reasonably informed of progress and you may be called on to provide further information or evidence. You should be aware that the ECS Ombudsman can determine to not investigate further at any time. If so, you will be informed of the reasons for doing so.

Possible outcomes

The possible outcomes depend on the nature of the subject matter of the complaint.

In privacy related complaints, there will be a strong emphasis on attempting to resolve issues using conciliation and other dispute resolution methods. If no resolution is possible, possible outcomes include:

- dismissing the complaint;
- finding the complaint substantiated and one or more of the following:

- a determination that no further action be taken;
- a determination that the agency should stop conduct, or engage in particular conduct;
- a determination that you be awarded compensation for loss or damage (including for injured feelings or humiliation);
- a declaration that you be reimbursed for reasonable expenses incurred in connection with making the complaint;
- an order that an agency correct or amend information in a record.

Freedom of Information

In freedom of information related complaints, there will be a strong emphasis on attempting to resolve issues using conciliation and other dispute resolution methods. If no resolution is possible, possible outcomes include:

- undertake an investigation;
- make recommendations to the agency in light of the outcome of the investigation;
- issue an implementation to force compliance with any such recommendations;
- report to the Ministerial Council on the conduct of the agency and have that report tabled in Parliament.

Other administration

In other administrative action matters (apart from privacy), the ECS Ombudsman can:

- undertake ongoing discussions with the head of the agency to try to resolve a matter;
- bring evidence of breach of duty or misconduct to the head of the agency or Ministerial Council;
- make a finding of undue delays;
- refer specific questions about exercise of power to appropriate tribunals (or recommend the head of the agency does so);
- make a finding that adverse conduct occurred and report it to the agency and Ministerial Council with a recommendation as to what should occur to rectify it.

Whether to entertain/investigate complaint

Assuming a complaint to be within jurisdiction, in writing, and the subject matter of concern has previously been raised with the respondent, there are circumstances where the ECS Ombudsman may exercise a discretion to decline to entertain or investigate a complaint (or investigate further). The basis on which the ECS Ombudsman can decline to investigate or investigate further depends on the function being performed, namely, privacy function, Ombudsman function or Information Commissioner function (see table below).

When can decline to investigate/entertain complaint

Privacy function	Ombudsman function	Information Commissioner function
The act or practice complained about is not an interference with privacy of an individual ⁷	The complainant has not complained to the respondent ⁸	The complainant has or had a right to cause the action to be reviewed by the respondent agency, the Information Commissioner, a court or a tribunal, has not done so and it would have been reasonable to do so. ⁹
The complaint was made more than 12 months after the complainant became aware of the act or practice ¹⁰	The ECS Ombudsman is satisfied the complainant became aware of the [administrative] action more than 12 months before the complaint was made ¹¹	
The complaint is frivolous, vexatious, misconceived or lacking in substance (see further below) ¹²	The ECS Ombudsman is of the opinion that the complaint is frivolous or vexatious or was not made in good faith (see further below) ¹³	The complaint is frivolous, vexatious, misconceived, lacking in substance or not made in good faith. ¹⁴
The act or practice is the subject of an application under another Commonwealth, State or Territory law, and the subject-matter of the complaint has been, or is being, dealt with adequately under that law ¹⁵	The ECS Ombudsman is of the opinion that the complainant does not have a sufficient interest in the subject matter of the complaint ¹⁶	The complainant does not have a sufficient interest in the subject matter of the complaint. ¹⁷
Another Commonwealth, State or Territory law provides a more appropriate remedy for the act or practice that is the subject of the complaint ¹⁸	The ECS Ombudsman is of the opinion that an investigation, or further investigation, of the action is not warranted having regard to all the	

⁷ Section 41(1), Privacy Act.

⁸ Section 6(1A), Ombudsman Act.

⁹ Section 73(b), FOI Act.

¹⁰ Section 41(1), Privacy Act.

¹¹ Section 6(1), Ombudsman Act.

¹² Section 41(1), Privacy Act. It is important to note that these concepts are not necessarily mutually exclusive.

¹³ Section 6(1), Ombudsman Act. It is important to note that these concepts are not necessarily mutually exclusive.

¹⁴ Section 73(e), FOI Act.

¹⁵ Section 41(1), Privacy Act.

¹⁶ Section 6(1), Ombudsman Act.

¹⁷ Section 73(f), FOI Act

¹⁸ Section 41(1), Privacy Act.

	circumstances ¹⁹	
The complainant has complained to the respondent about the act or practice and the respondent has dealt, or is dealing, adequately with the complaint ²⁰	The complainant has complained to the respondent, the ECS Ombudsman may decide not to investigate the action unless and until the complainant advises that no redress has been granted or that redress has been granted but the redress is not, in the opinion of the complainant, adequate ²¹	The complainant has complained to the respondent agency, and the respondent agency has dealt, or is dealing, adequately with the complaint; or has not yet had an adequate opportunity to deal with the complaint. ²²
The complainant has complained to the respondent about the act or practice and the respondent has not yet had an adequate opportunity to deal with the complaint ²³	Where a complainant exercises a right to cause the action complained of to be reviewed by a court or a tribunal constituted under an Act, ²⁴ the ECS Ombudsman shall not investigate or continue to investigate the action unless of the opinion that there are special reasons justifying investigation. ²⁵	
An application has been made by the respondent to have a determination that any interference with privacy was in the public interest (s 72, Privacy Act) and the complainant would not be prejudiced by deferring the investigation pending determination of that application. ²⁶	Where the complainant could have had the matter reviewed by a court or tribunal but has not exercised that right, the ECS Ombudsman may decide not to investigate the action if of the opinion that, in all the circumstances, it would be reasonable for the complainant to exercise, or would have been reasonable	The complainant has or had a right to cause the action to be reviewed by a court or a tribunal, or to another body, has not done so and it would have been reasonable to do so. ²⁸

¹⁹ Section 6(1), Ombudsman Act.

²⁰ Section 41(2), Privacy Act.

²¹ Section 6(1B), Ombudsman Act.

²² Section 73(d), FOI Act.

²³ Section 41(2), Privacy Act.

²⁴ Some examples of where a court or may review the matter include:

- where a decision to refuse access to some or all or parts of documents under the FOI Act may be reviewed by a relevant court or tribunal;
- where a decision to impose access charges or as to the amount of access charges under the FOI Act may be reviewed by a relevant court or tribunal;
- decisions made about registration of health practitioners including relating to renewal, endorsement, imposition of conditions, sect: s 199, National Law.
- where conduct of one of the respondent bodies may be the subject of judicial review proceedings in a participating jurisdiction.

²⁵ Section 6(2), Ombudsman Act.

²⁶ Section 41(3), Privacy Act.

	for the complainant to have exercised, that right ²⁷	
	Where the ECS Ombudsman becomes of the opinion that adequate provision is made under an administrative practice for the review of action complained of, the ECS Ombudsman can decide not to investigate if the action has been, is being or is to be reviewed under that practice at the request of the complainant, or it would be reasonable for the complainant to cause it to be ²⁹	
		The action complained about is not taken by an agency in the performance of the agency's functions or the exercise of the agency's powers under the FOI Act. ³⁰

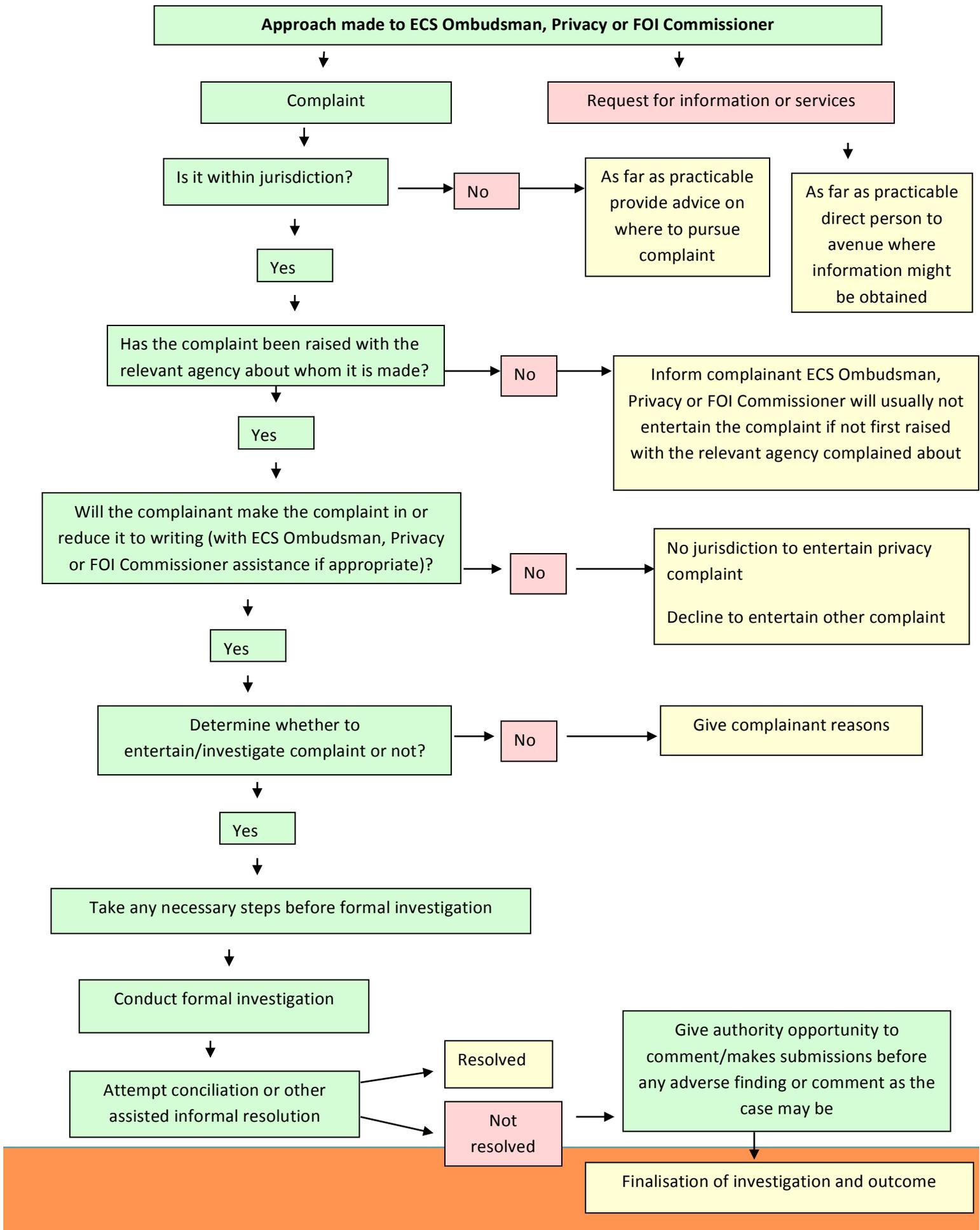
²⁸ Section 73(b) and (c), FOI Act.

²⁷ Section 6(3), Ombudsman Act.

²⁹ Section 6(4), Ombudsman Act.

³⁰ Section 73(a), FOI Act.

Attachment 2 COMPLAINT HANDLING PROCESS





**STATEMENT OF INCOME AND EXPENDITURE
FOR THE PERIOD ENDING 30/06/2012**

The Provision of office support for the Education and Care Services Ombudsman,
the National Education and Care Services Privacy Commissioner and
the National Education and Care Services Freedom of Information Commissioner

	Actual	Budget	Variance
	\$	\$	\$
Revenue			
Income	120,832	145,000	(24,168)
Total Income	<u>120,832</u>	<u>145,000</u>	<u>(24,168)</u>
Expenditure			
Retainer	11,138	20,000	8,862
Sitting Fees	1,604	10,000	8,396
Office Manager	13,664	25,000	11,336
Rent and Accommodation	9,777	20,000	10,223
IT Services	6,444	5,000	(1,444)
Other Expenses	42,961	40,000	(2,961)
Contingency	-	25,000	25,000
Total Expenditure	<u>85,588</u>	<u>145,000</u>	<u>59,412</u>
Balance Of Funds at 30 June 2012	35,244		

- Report has been prepared exclusive of GST



Education
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**BALANCE SHEET
AS AT 30/06/2012**

**The Provision of office support for the Education and Care Services Ombudsman,
the National Education and Care Services Privacy Commissioner and
the National Education and Care Services Freedom of Information Commissioner**

	\$
CURRENT ASSETS	
Cash at bank	35,244
Total Current Assets	<u>35,244</u>
Total Non-Current Assets	<u>-</u>
TOTAL ASSETS	<u><u>35,244</u></u>
CURRENT LIABILITIES	
Income received in advance	35,244
Total Current Liabilities	<u>35,244</u>
NON-CURRENT LIABILITIES	
Total Non-current Liabilities	<u>-</u>
TOTAL LIABILITIES	<u><u>35,244</u></u>
NET ASSETS	<u><u>-</u></u>
EQUITY	
Net surplus/(deficit) for the period	-
TOTAL EQUITY	<u><u>-</u></u>

**Notes to the Financial Report
For the period ended 30 June 2012**

Note 1: Basis of Preparation

The financial report for the period ended 30 June 2012 are drawn up as special purpose reports to fulfil the requirements of the Funding Agreement between the Department of Education, Employment and Workplace Relations and Education Services Australia Limited, dated 21 February 2012, regarding funding for the Provision of office support for the Education and Care Services Ombudsman, the National Education and Care Services Privacy Commissioner and the National Education and Care Services Freedom of Information Commissioner ("Funding Agreement").

Basis of preparation

The financial statements are presented in accordance with AASB 101 Presentation of Financial Statements (Revised 2007).

The financial statements have been prepared on an accruals basis and are based on historical costs. All amounts are presented in Australian dollars which is the Company's functional and presentation currency, unless otherwise noted.

Significant accounting policies

The significant accounting policies that have been used in the preparation of these financial statements are summarised below.

(i) Revenue

Revenue is measured at the fair value of the consideration received or receivable and is recognised when the invoice is raised for services.

All revenue is stated net of the amount of goods and services tax (GST).

(ii) Operating expenses

Operating expenses are recognised in profit or loss upon utilisation of the service or at the date of their origin.

(iii) Cash and Cash Equivalents

Cash comprises the portion of Education Services Australia Limited's operating bank account balance attributed to this funding agreement that has been received but not yet spent.

(iv) Other liabilities

At 30 June 2012 amounts shown as Other Liabilities represent the unrecognised revenue for projects invoiced or received in advance. It is possible that on completion of project work, balances that have not been fully expended could be returned to the Department of Education, Employment and Workplace Relations.

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**Independent Auditor's report
To the members of Education Services Australia Limited**

Report on the financial report

We have audited the accompanying financial report, being a special purpose financial report, which comprises the balance sheet as at 30 June 2012, the statement of income and expenditure, for the period then ended, notes comprising a summary of significant accounting policies. The financial report relates to the Funding Agreement between the Department of Education, Employment and Workplace Relations and Education Services Australia Limited, dated 21 February 2012, regarding funding for the provision of office support for the Education and Care Services Ombudsman, the National Education and Care Services Privacy Commissioner and the National Education and Care Services Freedom of Information Commissioner ("Funding Agreement").

Management's responsibility for the financial report

The management of Education Services Australia Limited are responsible for the preparation of the financial report. This responsibility includes establishing and maintaining internal control relevant to the preparation and fair presentation of the financial report in accordance with the Funding Agreement and the Australian Accounting Standards.

Auditor's responsibility

Our responsibility is to express an opinion on the financial report based on our audit. We conducted our audit in accordance with Australian Auditing Standards. These Auditing Standards require that we comply with relevant ethical requirements relating to audit engagement and plan and perform the audit in order to express an opinion on the preparation and presentation of the financial report to management.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial report. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial report, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Education Services Australia Limited's preparation

and fair presentation of the financial report in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Education Services Australia Limited's internal control.

These procedures have been undertaken to form an opinion whether, in all material respects, the financial report is presented fairly in accordance with Australian Accounting Standards. We disclaim any assumption of responsibility for any reliance on this report or on the Financial report to which it relates, to any person other than Education Services Australia Limited and the Department of Education, Employment and Workplace Relations, or for any purpose other than that for which it was prepared.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Independence

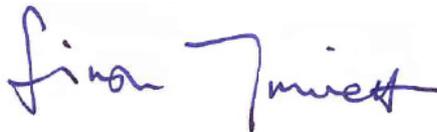
In conducting our review, we have complied with the independence requirements of the Accounting Professional and Ethical Standards Board.

Auditor's opinion

In our opinion the attached financial report of Education Services Australia Limited for the period ending 30 June 2012 for the provision of office support for the Education and Care Services Ombudsman, the National Education and Care Services Privacy Commissioner and the National Education and Care Services Freedom of Information Commissioner is presented fairly, in all material respects, in accordance with the requirements of the Funding Agreement and Australian Accounting Standards; and the funding was expended in accordance with the Funding Agreement.



GRANT THORNTON AUDIT PTY LTD



Simon Trivett
Partner – Audit & Assurance

Melbourne, 10 October 2012