

Response to Questions on Notice from Senator Thorpe

Question

- 1. How does the Aboriginal Deputy Ombudsman monitor the wellbeing, health, education, connection to culture of Aboriginal children in the youth justice system?**

Answer

Since 2014 the NSW Ombudsman has a statutory function under Part 3B of the *Ombudsman Act 1974* (NSW) to monitor and assess the NSW Government's OCHRE program, and a Deputy Ombudsman, Aboriginal Programs is appointed for that purpose.

The OCHRE program currently comprises four active initiatives:

- Aboriginal Language and Culture Nests
- Local Decision-Making
- Opportunity Hubs
- Connected Communities (Education).

See: <https://www.nsw.gov.au/departments-and-agencies/aboriginal-affairs-nsw/about-ochre>.

Youth Justice is not within the OCHRE program as such, but the NSW Ombudsman's *OCHRE Review Report*, tabled in October 2019, addresses, in various sections, the intersection of OCHRE initiatives with Aboriginal children with the youth justice system.¹

In late 2024, the legislative provisions governing the NSW Ombudsman's jurisdiction for monitoring Aboriginal programs under Part 3B of the *Ombudsman Act 1974* (NSW) was amended to provide that, in addition to monitoring the OCHRE program, the Ombudsman may also monitor other Government programs that are 'primarily directed to the health, or cultural, economic, educational or other wellbeing, of Aboriginal persons or communities'.

This jurisdiction does not cover all services received by, or interactions involving, Aboriginal people and communities and public services in NSW. In particular, the youth justice system is not generally characterised as a program 'primary directed' to the 'wellbeing' of Aboriginal peoples or communities. That said, there may be specific programs with the youth justice system that could be so characterised.

While the legislation provides that OCHRE remain a central and mandatory focus of the Ombudsman's Part 3B function, the 2024 changes mean that the Ombudsman has discretion to look beyond OCHRE where appropriate.

We are in the process of developing a forward program of monitoring and assessment activities – to assist the Ombudsman and Deputy Ombudsman, Aboriginal Programs to select and prioritise any Aboriginal programs, beyond OCHRE, it will undertake focused oversight of. We intend consulting stakeholders on a draft forward program once developed.

¹ See https://cmsassets.ombo.nsw.gov.au/assets/Reports/OCHRE-Report_October-2019.pdf. Note, the report uses the term 'juvenile justice system' rather than 'youth justice system', reflecting the term used in NSW until 2019.

For completeness, we note that the Ombudsman has a range of other functions – complaint handling, investigations, community services monitoring – that may touch on the intersection of young Aboriginal people and the youth justice system.

For example, even prior to the NSW Ombudsman having jurisdiction to monitor the OCHRE program under Part 3B, the NSW Ombudsman tabled a number of relevant reports. For example, in December 2010, the NSW Ombudsman tabled the *Inquiry into service provision to the Bourke and Brewarrina communities* report.² Further, in October 2011, the NSW Ombudsman tabled the *Addressing Aboriginal disadvantage: the need to do things differently* report.³

More recently, the Ombudsman has tabled reports relating to children in out-of-home care (OOHC) that in some ways touch upon the intersection between OOHC and youth justice, for example: *Aboriginal Outcomes Strategy focus area 2 (out-of-home care) – were the targets achieved?* report⁴, *Review of the DCJ Complaint System in respect of its Aboriginal Child Protection functions* report⁵, *Inquiry into Intensive Therapeutic Care* report⁶, and *"No capacity to allocate" – The Department of Communities and Justice's practice of closing ROSH (Risk of Significant Harm) reports* report⁷.

Question

- 2. Why is the role of Aboriginal Deputy Ombudsman vacant and how long has this role been vacant for?**
 - a. Why has there been a delay in filling this vacancy?**
 - b. Has the vacancy meant capacity shortfalls at your office? How has this impacted the Ombudsman's ability to address complaints?**

Answer

The role of Deputy Ombudsman, Aboriginal Programs became vacant at the end of October last year following the resignation of the previous officeholder. We advertised and commenced recruitment for the Deputy Ombudsman, Aboriginal Programs role in March/April 2026.

As end of year is not generally conducive to strong recruitment activity, we held over advertising the role until the new year, and engaged an Executive search agency with experience in recruiting to Aboriginal-identified senior executive roles.

More importantly, we also wanted to take the opportunity to consider how the Deputy Ombudsman, Aboriginal Programs role best aligns and supports delivery on the NSW Ombudsman's strategic goals as well as how the role contributes to leadership across the office concerning broader

² See https://cmsassets.ombo.nsw.gov.au/assets/Reports/SR_ServiceProvisionBourke_Dec10.pdf.

³ See https://cmsassets.ombo.nsw.gov.au/assets/Reports/SR_Aboriginal-disadvantage-report.pdf.

⁴ See https://cmsassets.ombo.nsw.gov.au/assets/Reports/Aboriginal-Outcomes-Strategy-focus-area-2-Out-of-home-care-were-the-targets-achieved_web.pdf.pdf.

⁵ See <https://cmsassets.ombo.nsw.gov.au/assets/Reports/Review-of-the-DCJ-Complaint-System-in-respect-of-its-Aboriginal-Child-Protection-functions-6-November-2024.pdf>.

⁶ See <https://cmsassets.ombo.nsw.gov.au/assets/Reports/Inquiry-into-Intensive-Therapeutic-Care-Report.pdf>.

⁷ See <https://cmsassets.ombo.nsw.gov.au/assets/Reports/No-capacity-to-allocate-DCJs-practice-of-closing-ROSH-reports.pdf>.

Aboriginal cultural matters. This work was undertaken with guidance from external Aboriginal leaders.

At the time the vacancy arose, we were awaiting the Government's response to our *OCHRE 2024: Current status and future direction* report.⁸ Whether or not the recommendations of that report were accepted by Government would significantly impact the role of Deputy Ombudsman, Aboriginal Programs going forward. It has therefore been useful to commence recruitment, and inform and engage with candidates for the role, with a clear understanding of the Government's future plans for OCHRE and NSW Aboriginal Affairs. (Details of the Government's response to that report was published on our [website](#) at the beginning of March 2026. Importantly, the response accepts the core recommendation of our report, including for the Government to re-commit to OCHRE and propose it be embedded in legislation.)

Monitoring of Aboriginal programs has continued during the vacancy period; however we acknowledge the importance of having the Deputy Ombudsman, Aboriginal Programs role to provide culturally-responsive leadership in the performance of our Part 3B statutory functions.

Question

- 3. In the time this role has been vacant, how has the ombudsman fulfilled the function of monitoring the wellbeing, health, education, connection to culture of Aboriginal children in the youth justice system?**

Answer

Please refer to our response to question 1.

- 4. Of the 45 complaints from (or about) children and young people detained in a youth justice centre in the 2023-24 financial year, what was the nature of these complaints?**
- 5. Please provide a breakdown of how these complaints were resolved for the individual complainants and what systemic changes were recommended as a result of these complaints.**
- 7. During the 12 visits your office made to youth justice centres in the 2023-24 financial year, what issues and complaints did young people raise and how did you resolve their concerns? Are these 12 complaints part of the 45 (referred to in question 4. above), categorised separately; or not reported at all?**

Of the 45 complaints finalised about a Youth Justice Centre in the 2023-24 financial year, 24 were received from young people during our visits to the Centres.

We use a range of early resolution tools to resolve complaints including information checks via our 'read only' access to agency complaint databases, warm referrals to Centre Managers where we consider they are in the best position to be able to assess and resolve a complaint, and the making of preliminary inquiries under s 13AA of the *Ombudsman Act 1974 (NSW)* where we determine we need further information in order to be able to appropriately deal with a complaint. We made preliminary inquiries in relation to 16 of the 45 complaints that were resolved, including 9 of the complaints received in person.

⁸ See <https://cmsassets.ombo.nsw.gov.au/assets/Reports/OCHRE-2024-Current-status-and-future-direction.pdf>.

The largest group of complaints (10) involved allegations of officer misconduct which were generally resolved once the matter was with the Centre manager or Professional Standards for investigation.

There were 7 complaints that involved concerns about food, but they generally reflected a dislike of food due to personal preference as opposed to a concern with the nutritional value, quantity or variety of food. While we pass on negative feedback we receive from young people about the food they receive, preliminary inquiries would not be made to a Centre unless it appeared the centre was not complying with the Youth Justice food provision policy. One complaint did allege that reasonable cultural food requirements were not being consistently met. This matter was resolved following our making preliminary inquiries with the centre.

There were 4 matters where confinement or restrictive practice was an issue, we resolved 3 of these after discussions with and/or warm referral to the Centre Manager to take further action, the other did not warrant further action.

There were also 6 complaints concerning common area phones not working, which we generally resolved via referral to the centre manager. Other complaints included issues such as transfer refusals, arranging visits and contact with family, and access to health or education services. These were generally resolved with better explanations, warm referrals or preliminary inquiries.

While there were common themes of complaints, they did not indicate serious or systemic issues of maladministration that would warrant formal investigation which is the prerequisite to making recommendations under s 26 of the *Ombudsman Act 1974* (NSW). Where we do identify patterns or potential systemic issues in complaints, we will also share this information with the Inspector of Custodial Services when she is preparing for her youth justice centre inspections and reports.

Question

6. Have complaints from children in detention increased or decreased or changed in nature in the two years since? If so, how?

Answer

We finalised 73 actionable complaints about youth justice centres in the 2024-25 financial year and 43 actionable complaints in the 2025-26 financial year to March. (Note that the figure provided at hearing of 83 complaints in the 2024-25 financial year referred to total complaints *received* in that year).

Despite there being a relatively low number of complaints through which to analyse trends, broadly, we consider that the nature of complaints has not changed to those detailed in our response about the 2023-24 financial year above.

Question

8. How many visits to young people in detention has your office made since the 2023-2024 financial year and what issues and complaints have young people raised during those visits?

Answer

We have conducted 10 visits in the 2024-25 financial year and 6 visits from 2025-2026 to present. All NSW youth justice centres have been visited at least once in each year.

The common complaints themes as listed in question 6, remain broadly the same from previous years.

Question

9. What challenges have been reported with the complaints process and how are you addressing them?

Over the past 3 financial years we have received 5 complaints specifically about a youth justice centre's failure to respond, or respond adequately, to a complaint. Of these, 4 have been finalised, including through the use of preliminary inquiries and referrals to the Centre Manager. One matter involved a referral under s 12A of the *Ombudsman Act* to Youth Justice for investigation.

More broadly, the NSW Ombudsman undertakes substantial education and training work focused on helping government agencies to uplift their complaints handling practices, including publishing the [Effective Complaint Management Guidelines](#) as a comprehensive resource designed to support NSW public sector organisations to strengthen their complaint management systems and processes.

Question

10. Have you investigated the rigour of your complaints process to ensure that young people can actually make complaints?

We have a strong commitment to continuous improvement in our complaints handling processes and ensuring our process is accessible to young people in the youth justice system. We maintain a dedicated Custodial and Community Corrections team with deep subject matter expertise and streamlined access to our services from within custodial settings:

- We maintain a schedule of visits that ensures every Youth Justice centre is visited at least once, and are on track to continue to exceed that goal by visiting the centres twice annually.
- The NSW Ombudsman is the first number listed on the free call list in Youth Justice Centres.
- When we conduct a visit to a Youth Justice Centre, we check that posters about our office are still displayed on the walls.
- We have a memorandum of understanding with the Inspector of Custodial Service to facilitate Official Visitors and the Inspectors staff sharing information.

We meet regularly with Youth Justice to raise issues we are seeing and this includes accessibility issues where they arise.

We are mindful young people can sometimes have retaliation concerns and accept anonymous complaints. We will pursue complaints without naming the young person where appropriate.

Since 2024-2025, we have also strengthened our processes for agency report backs on the outcomes of warm referrals.

Responses to Questions on Notice during Hearing

Question

11. Number of staff in Custodial and Community Corrections team

12. Complaint volume for Custodial and Community Corrections

Ms Anderson: From the 2024-25 financial year to where we're at, there were 83 complaints—51 in person, 26 by telephone, and six through other forms.

CHAIR: How many are in your team to look after that?

Ms Anderson: We've got a discrete team that I think I mentioned. They're in charge of corrective services as well as youth justice. I could get you the exact numbers, but I think there are approximately 12 in that team.

CHAIR: How many complaints in total does that team look after

Ms Anderson: I would have to come back to you on that. Do you mean collectively with corrective services?

CHAIR: Yes.

Ms Anderson: I can come back to you on that.

Answer

Currently, we have 13 people working within our Custodial and Community Corrections team who are responsible for receiving and handling all complaints about adult corrections, youth justice, community corrections and Justice Health. The team conducts scheduled visits to adult and youth centres and manages liaison activities with internal and external stakeholders including Corrective Services NSW, Youth Justice, Justice Health and the Inspector of Custodial Services.

We received 83 actionable complaints⁹ about Youth Justice in the 2024-2025 financial year and 45 in the 2025-26 financial year to 30 March 2026. We received 6,048 actionable complaints about adult correctional centres in the 2024-2025 financial year and 4, 360 in the 2025-26 financial year to 30 March 2026.

Question

13. Resolution of 22 matters involving preliminary inquiries

CHAIR: In terms of recommendations, you were talking about getting to resolutions. Of those 83 total complaints, how many were resolved satisfactorily and simply?

Ms Anderson: Of the 83, we've had to take further active steps for 22, which again comes to the active steps being further engagement with youth justice or what have you and being beyond what we can find out for ourselves through access to case systems or otherwise—engagement directly at the centre level earlier on. There are 22 where we had to make further preliminary inquiries. I will

⁹ 'actionable complaints' are complaints that can be accepted under s12 of the *Ombudsman Act 1974* (NSW). They do not include contacts made with our office which are classified as requests for information or are otherwise about matters that are outside of our jurisdiction.

have to get back to you to tell you exactly how many of them have been closed, but the vast majority are resolved at that level through direct engagement and through the asking of quite particular questions. The further step we could then take is making some comments or suggestions if we think that there's something more broad that needs to happen.

Answer

Of the 83 actionable complaints received in the 2024-25 financial year, we have finalised 73. 51 were resolved via preliminary inquiries and 19 were closed without requiring further inquiries. 3 complaints were resolved between the parties.

Of the 45 actionable complaints received in the 2025-26 year to date, 19 were finalised following our making preliminary inquiries, 18 were closed without requiring further inquiries and 6 were resolved between the parties.

Question

14. Comments and suggestions relating to food, including culturally diverse foods, and time out of cells

CHAIR: In terms of comments and suggestions, have you ever made comments and suggestions in relation to, say, food that's provided in the centres and time out of cells for young people?

Ms Anderson: We have not had to do that recently. Not in this financial year, no.

CHAIR: Nothing about food or time out of cells?

Ms Anderson: Again, I can confirm that.

CHAIR: That would be great. Could you confirm that and provide that on notice. Could you also then provide on notice what comments or suggestions you have made in relation to that. I think that would be very helpful. Senator Shoebridge?

Answer

In the financial years 2023-24 to 30 March 2026, we have not made formal written suggestions to Youth Justice about the food that is provided.

The complaints we receive about food often reflect personal meal preferences rather than issues about nutrition. While we pass on negative feedback we receive from young people about the food they receive, preliminary inquiries would not be made to a Centre unless it appeared the centre was not complying with the Youth Justice food provision policy.

We received one complaint in the 2024 – 25 financial year, where a young person complained that they were not being provided with culturally appropriate meals on a consistent basis. In that complaint, our inquiries to the centre resolved the situation without the need for formal written comments and suggestions.

We have not made any formal suggestions or recommendations to Youth Justice in relation to time out of cells. The Inspector of Custodial Service's recently released a report [Unannounced Inspections of Six Youth Justice Centres \(2025\)](#) making a number of observations relevant to time out of cells.

Question

15. Culturally appropriate food

Senator SHOEBRIDGE: If you're locked in your cell for 16 or 17 hours, the one thing you've got to look forward to is a bit of food. And then you get some crap food that you don't want to eat, or not enough of it. Sometimes we just step over the degrading human experience of detention. Can you give us some sense of the flavour of that, so to speak?

CHAIR: Also, and this might be something you take on notice, are there complaints that come in around culturally diverse foods? As part of evidence that we've gathered, we're picking up that there are now diasporas of various migrant groups that are overrepresented in youth detention centres. Has any of that filtered through to your office? You're welcome to take that on notice.

Ms Anderson: I'm happy to take the specifics on notice. Again, the most recent feedback that I've got from the recent visits from the team was acknowledgement that there has been an improvement in that regard, particularly around religious holidays et cetera that have recently occurred. There has been an accommodation of different requirements and preferences of different religious groups. That's anecdotal; I can come back to you with something a little bit more specific. But I think we would all acknowledge that, if that's occurring, that's absolutely what we would expect in that sort of environment.

Answer

See response to Q 14.
