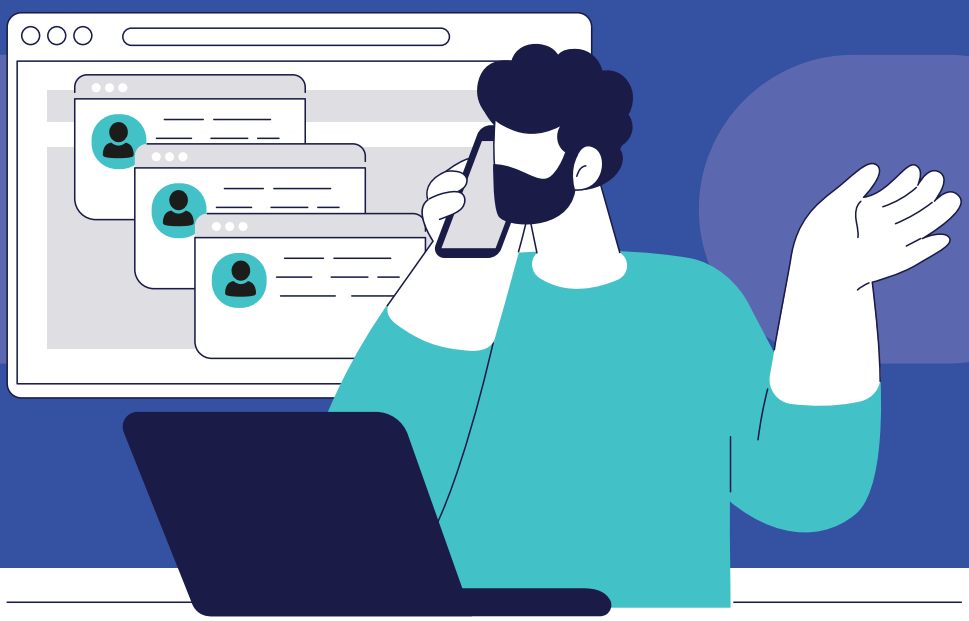
VICTORIAN ombudsman

QUICK GUIDE

Managing complaint backlogs

Timeliness is a fundamental principle of good administrative practice, but it is often challenged when government departments and public sector agencies experience internal backlogs. The potential demands on an agency are rarely matched by an equivalent availability of time and resources, frequently leading to escalating delays.



Backlogs can form in almost any administrative context. In decision-making contexts, they typically arise when the volume and speed of matters coming into an agency overwhelms its capacity to review, investigate, analyse, make the required decision, or otherwise take the action required.

A vicious cycle can sometimes develop in which the delays caused by a backlog result in open cases demanding even more resources and taking inherently longer to resolve. For example:

- extensive delays may mean the agency needs to communicate more often with those affected by the delay, both proactively and in response to queries and complaints
- officers assigned to a matter may change or, even if there is no change in staff, they may need to remind themselves about a matter multiple times
- circumstances may change, requiring a matter to be triaged multiple times or more information to be sought
- when the matter is responded to, it may be harder to obtain necessary supporting material or the information to resolve the matter if it has become very dated.

Backlogs are caused by different factors, result in different impacts, and often require different interventions to achieve a resolution.

This resource acknowledges the complexity and challenges associated with resolving backlogs in a public sector context. It supports agencies to prevent backlogs from emerging and to manage existing backlogs by identifying:

- the adverse impacts caused by backlogs
- common reasons why backlogs occur
- the risks of maladministration that can arise
- helpful approaches to backlog management.



Parts of this publication draw on *In focus: Managing backlogs*, produced by the NSW Ombudsman, and have been adapted for the Victorian context with their permission.

Adverse impacts of backlogs

Backlogs in government administration can have significant real-life consequences. An agency's failure to discharge its functions in a timely way can result in delayed justice and further entrench disadvantage and harm for the people waiting for a decision or outcome.

The pressure associated with administrative backlogs can also affect staff morale, contributing to reduced productivity and burnout, and difficulties in recruitment and retention. Similarly, the need to achieve outcomes with limited resources can result in a lack of compliance with policy, process or procedure. For example, improper recruitment practices to address staff shortages or a poor workplace culture arising from heavy workloads can create risks of corrupt conduct.

Backlogs can also result in considerable reputational damage and embarrassment for the agency concerned, eroding public trust and contributing to disillusionment with government processes more broadly.

As discussed below, backlogs also create risks of maladministration. This includes when a backlog results in an agency not performing its functions in accordance with a statutory duty, or when an agency tries to take remedial action that leads to 'cutting corners' and inadvertently causes or contributes to maladministration.



Why do backlogs occur?

An agency's capacity to perform its functions can be affected by both internal and external factors, some of which may be beyond an agency's control. Backlogs can rarely be attributed to a single cause. It is usually a multitude of factors that result in a backlog forming and impede a swift resolution.

There may be a temptation to blame a backlog on a 'perfect storm' of factors. However, backlogs tend to form incrementally before expanding exponentially. With diligent monitoring, the warning signs can typically be foreseen.

External pressures can include:

- inadequate funding to support the delivery of an agency's functions – for example, resource constraints can lead to underinvestment in necessary technologies or system upgrades to improve efficiency
- changes in an agency's operating environment – for example, legislative reform or a new government policy may expand or alter an agency's functions or jurisdiction, or introduce additional complexity around the exercise of existing functions
- a spike in demand for an agency's services – for example, following media coverage that draws public attention to an agency's functions.

Backlogs are more likely to develop when there has been insufficient planning or investment to increase an agency's capacity to accommodate increased demand for its services. Backlogs can also arise or worsen as a result of deficiencies in an agency's internal systems and/or processes. For example:

- staffing shortages due to poor workforce planning and/or problems with recruitment and retention
- inefficiencies and/or duplication across different stages in a workflow (including over-engineered processes that need to be streamlined)
- delegations or requirements for approval of decision making that are set at inappropriate levels of seniority or are incorrectly applied
- inappropriate prioritisation or poor time management (potentially caused or worsened by inappropriate targets)
- reliance on outdated technology or infrastructure that is no longer fit for purpose (including a failure to invest in maintenance and/or upgrade of existing systems)
- implementing and transitioning to new technology or infrastructure (including as a result of downtime, distraction and efficiency loss as staff come up to speed with the new tools)
- the absence of internal reporting mechanisms or designated responsibility for monitoring and escalating concerns around performance, workflow or other agency practices.

Inaction, inertia or a reluctance to respond when risk factors arise or an emerging backlog is identified can also reveal underlying problems in an agency's organisational culture.

Risks of maladministration

The way an agency manages or fails to manage a backlog can constitute, cause or contribute to maladministration or poor administrative practice.

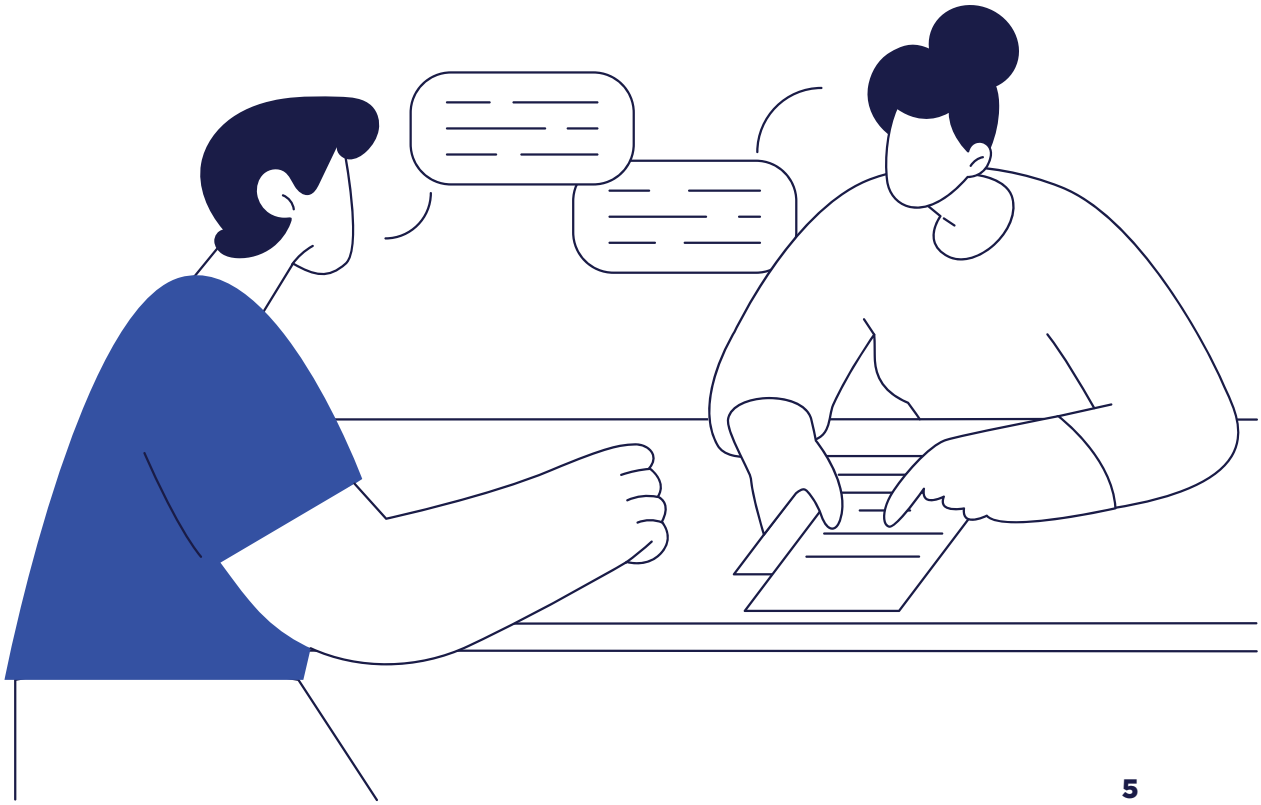
Failing to adequately respond to a backlog

The failure to take appropriate action to manage a serious or persistent backlog can constitute maladministration. However, a finding of maladministration can also be made when an agency unreasonably fails to identify and respond to the warning signs of an emerging backlog.

In many cases, frontline staff are well positioned to identify shifts in demand for services and difficulties with meeting timeframes. This underscores the importance of establishing clear reporting lines for staff to escalate concerns regarding workflow at the earliest opportunity, as well as measures to capture and monitor trends in demand for an agency's services.

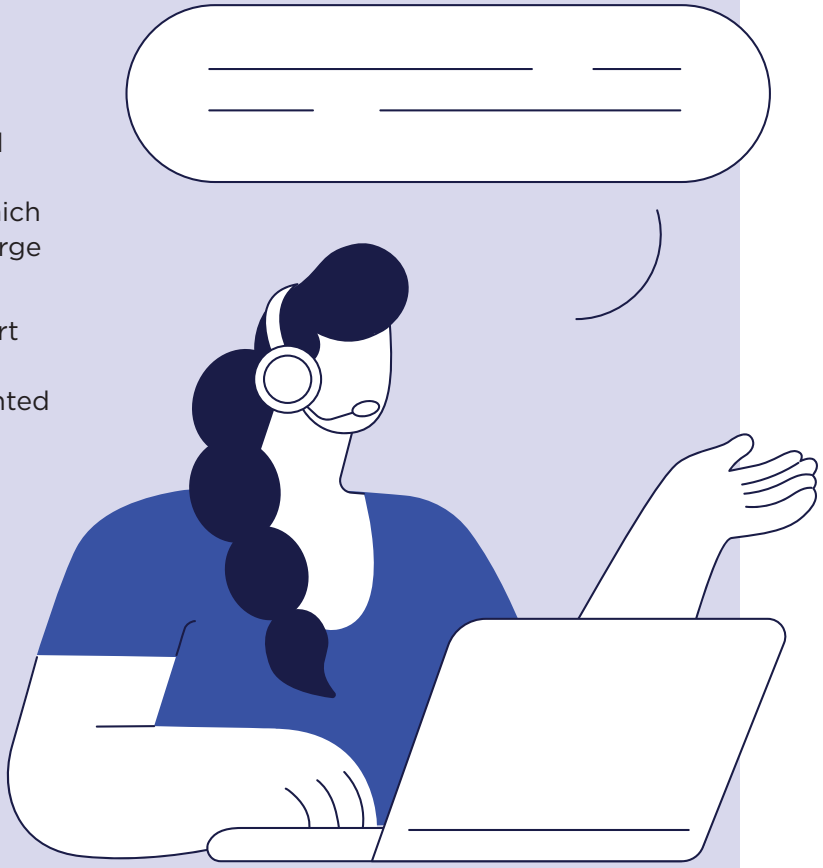
A well-functioning frontline complaint-handling system can also be an important source of intelligence about emerging backlogs – an increase in complaints about inaction or service delays may be an early warning sign that a backlog is building.

The following scenario is based on real events and illustrates some of the ways that agencies can fail to appropriately manage an emerging backlog.



SCENARIO

Failure to adequately respond to a backlog



The Victorian Ombudsman conducted an own-motion investigation into a Victorian Government department which was responsible for administering a large government grant program.

The aim of the program was to support a vulnerable demographic. It was important that the department prevented further distress by establishing robust complaint-handling systems and clear communication, including for approximate timelines regarding application acknowledgements, outcomes and submission reviews.

The department frequently missed its own application processing targets, announcing it would process applications within 5 business days. However, many applications took over 30 days. The department did not communicate these delays and was very slow in responding to the many subsequent complaints.

The Ombudsman's investigation found that the backlogs of complaints were caused by several factors. The department outsourced the handling of calls about the grant program to an external call centre, without appropriate oversight and training. Despite the call centre increasing staff from 15 to 550 people during peak periods, the staff lacked access to data to be able to give accurate, specific advice, or escalate complaints appropriately. Many calls related to old complaints that had not been resolved.

The department poorly communicated procedural and outcome choices for complainants, including grant denials due to typographical errors, outcome emails containing complex jargon, and unclear resubmission requirements.

The department ignored obvious signs of a dramatically increasing backlog of complaints. It did not attempt to monitor or adequately respond to the growing backlog, choosing to continue using external call centre services despite emerging signs of a lack of productivity and accumulating complaints that remained unresolved.

The department eventually engaged an independent consultant to set up complaints and review processes, provided applicants the opportunity to reapply, implemented case management and improved communication. However, the Ombudsman continued to receive similar complaints about delays of up to several months relating to the grant program.

Taking action that inadvertently results in maladministration

It is also important to ensure that any steps taken to address an existing backlog do not inadvertently cause or contribute to maladministration. For example, by leading to poor or rushed decision making, compromising the quality of service provided, or a lack of transparency around an agency's progress in clearing a backlog.

Considerable risks arise when agencies implement 'quick fix' solutions to deal with backlogs. For example, by shifting from manual processes to automated decision making without appropriate parameters, guidelines and oversight to monitor the quality and consistency of decisions made.

In some cases, agencies overwhelmed by demand for their services have introduced a means test or a higher threshold that must be met before their services can be engaged. This is generally intended to limit or reduce the scope of matters the agency will deal with but can be problematic when it leads to a denial of service or inappropriately constrains an agency's functions as set out in legislation.

Similarly, it is common for agencies facing backlogs to engage in a 'hiring blitz' to rapidly increase staffing, or to outsource their decision-making functions. These approaches can increase the risk of poor or inconsistent outcomes as the people now responsible for decision-making may not have the required experience or expertise.

The following scenario is based on real events and demonstrates how updating systems can inadvertently contribute to maladministration – whether they are initiated in response to an emerging or existing backlog or as a pre-emptive measure to manage resource constraints.



SCENARIO

Failure of services from a government service provider

The Ombudsman's investigation into a major Victorian Government service provider began due to increased complaints about delayed payment of bills, poor communication and questionable decision making.

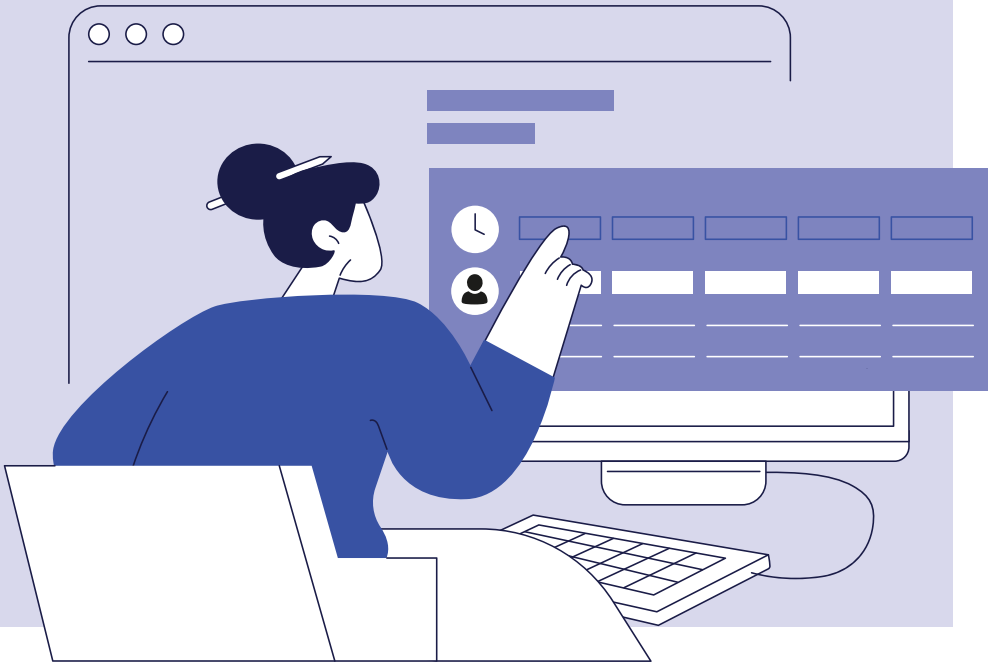
The Ombudsman's investigation found the agency was two to three months behind in their work. Data indicated it had not met its own timelines and performance benchmarks for two years. As a result of this backlog, the organisation reworked its case management system. However, it faced significant challenges in its implementation.

The model system split consultants across different specialisation teams. This was opposed to previous workflow processes where individual employees looked after entire client portfolios. While the new model was intended to streamline work processes, it inadvertently worsened the backlog.

Decision-making on matters took longer as employees spent more time switching and familiarising themselves with different client portfolios. These high workloads, compounded with incomplete client files, also caused an increase in absenteeism and staff turnover. This resulted in further delays as it took between nine months and three years for consultants to be adequately experienced. In this way, not only did the transition create initial inefficiencies, but it also induced staffing shortages that reduced the organisation's productivity.

Limited resources and workforce challenges in particular can overload staff and organisations. However, transitioning to new systems needs to be well planned so that they achieve their intended goals and increase efficiency. In this case, the poor transitions aggravated backlogs and resulted in further maladministration.

Following review and implementation of further changes, the organisation was able to improve its processes and reduce its backlog.



Unreasonable delays

A finding of maladministration could also be made against an agency when a backlog results in an unreasonable delay in performing its functions.

Determining what constitutes an 'unreasonable delay' is a complex matter. Determining whether a delay is unreasonable requires an assessment of all factual circumstances. Resourcing is a relevant consideration, but an agency cannot simply rely on resourcing constraints as justification for a delay in making a statutory decision. There is a limit beyond which a delay becomes unreasonable, regardless of whether an agency is insufficiently resourced to perform its functions.

The following scenario is based on a real events and is an example of unreasonable delays. It illustrates some of the ways that agencies can fail to appropriately manage a persistent backlog.

SCENARIO

Unreasonable delays in processing grant applications

The Ombudsman received a large number of complaints about a discretionary ex-gratia payment scheme administered by a Victorian Government department. The payment scheme was established to provide financial assistance a group in the community experiencing significant financial hardship following state government industry reforms.

The department significantly underestimated application volumes, internally forecasting a minimum of 150 applications despite data suggesting far greater demand. It ultimately received more than eight times that number.

Applicants were advised all outcomes and payments would be made by mid-year. By January the following year, around one third of applications remained outstanding. Assessment of all applications was not completed until April, twelve months after the application period closed. Given the impact of these decisions on individuals and their families, and the initial expectation of the timeframe, this delay was deemed unreasonable.

Furthermore, the investigation also found the department had acted unreasonably by failing to establish and resource the scheme sufficiently to meet the reasonable likelihood of demand, and by failing to transparently communicate with applicants, including reasons for the delay.

These failures were compounded by the absence of any documented policies or procedures for managing timelines, applicant communications or complaints.

The department acknowledged that its communications were insufficient and committed to developing a better communication plan for similar schemes in the future.

This scenario shows how even when resourcing is out of a department's control, backlogs can still be prevented from escalating into further instances of maladministration, by ensuring accurate demand forecasting and communication planning.

Helpful approaches for managing backlogs

Effective backlog management will typically require short-term measures to contain the backlog and deal with the immediate 'symptoms', and a longer-term commitment to identify and address underlying causal factors. This is essential to ensure a backlog does not re-emerge in the future.

Depending on the circumstances, agencies could consider adopting the following measures in the short term while a longer-term approach to backlog management is underway. Once a backlog has been resolved, agencies should take the opportunity to reflect and learn, and to consider what longer-term strategies and mitigations may be needed to avoid a backlog recurring in the future.

Triage and prioritisation

A characteristic of many backlogs is that matters sit in a single queue and are actioned based on the order they were received by the agency. However, this may not always be appropriate, depending on the nature of the matters in the backlog. There may be cases where it is justifiable or necessary to action some matters before others. For example, where there is a risk to the health or wellbeing of a complainant if the resolution of their matter is delayed.

Where possible, agencies should introduce a triaging mechanism to categorise matters into different work streams, depending on the urgency with which they should be actioned. This should be a relatively swift determination based on the information available, rather than a comprehensive or detailed assessment of each matter. Staff exercising the triaging function should be given clear guidance on how to differentiate between matters, including the key factors or characteristics that help identify priority matters for urgent action.

Tailoring your approach through risk-based assessment

A proportionate, risk-based approach enables agencies to focus regulatory effort where it will have the greatest impact, while ensuring less complex or lower-risk matters are dealt with efficiently and appropriately.

Once matters have been triaged and allocated to an appropriate work stream, agencies should consider whether the same approach is required for every matter. A risk-based approach recognises that matters differ in their complexity, potential impact, regulatory significance, and likelihood of harm, and that resources should be applied proportionately.

Rather than adopting a single process for all matters, agencies can develop a range of response options that are calibrated to the level of risk and effort required. For example, some matters may be suitable for early resolution, administrative closure, or a request for further information, while others may warrant a more intensive assessment, investigation or higher levels of managerial oversight. Identifying these pathways at an early stage can reduce unnecessary work, improve timeliness, and help prevent lower-risk matters from consuming resources that could be directed to higher-risk issues.

Active monitoring

Agencies should introduce an end-to-end case management system for active monitoring its progress to reduce its backlog across all stages in the workflow.

This should enable visibility over the backlog as a whole and cases under management (active and on hold) through to case resolution. This includes how many matters are at each stage in the workflow at any point in time, as well as the average length of time that matters have remained at the same status. It should also enable visibility of progress at an individual case level, such as the number of days a particular matter is unallocated, with a case officer, or awaiting supporting documentation.

Similarly, the introduction of regular audits across different agency functions could help identify emerging trends and issues as they arise.

Visibility at senior leadership level

The responsibility for addressing a backlog ultimately rests with an agency's senior leadership. Leaders have a significant role to play in setting expectations, motivating staff and championing backlog reduction as an agency-wide priority. This includes celebrating success when milestones have been met.

Agencies should also put in place mechanisms to ensure ongoing visibility and accountability at senior leadership level. For example, identifying target timeframes for backlog reduction accompanied by regular public reporting on progress, and introducing progress updates on backlog reduction as a standing agenda item during executive meetings.

Communication

Finally, one of the most important practices in effective backlog management is transparent communication. Even when delays are long, clear communication with complainants or stakeholders about anticipated timeframes and a commitment to providing regular updates on the status of their matter will help to reduce uncertainty and manage expectations.



While backlogs remain an inherent risk in a public sector context, it is critically important to take steps to avert a potential backlog or manage an existing backlog at the earliest opportunity. An emerging backlog is almost always easier to address, with less intensive and more cost-effective interventions, than a backlog allowed to expand exponentially.

When faced with backlogs, agencies still need to ensure they continue to adhere to the principles of good administrative practice. While it is necessary to avoid unreasonable delays, agencies must not sacrifice the lawful, diligent and fair exercise of their functions in the pursuit of timeliness.

Once a backlog has been resolved, agencies should take the opportunity to reflect and learn, and to consider what longer-term strategies and mitigations may be needed to avoid a backlog recurring in the future.

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