



Aircraft Noise Ombudsman Charter

October 2020

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Section A: Introduction

Part 1 – Context and purpose

Context

- 1 The Aircraft Noise Ombudsman (**ANO**) was established by Airservices Australia (**Airservices**) in response to the Australian Government's *National Aviation Policy White Paper* (December 2009). The Australian Government seeks to work with the aviation industry to ensure the impacts of aircraft noise are minimised and to find practical solutions for noise amelioration. As part of a series of measures, an aircraft noise ombudsman was established within Airservices to independently review noise complaints handling procedures and make recommendations for improvements where necessary; and improve Airservices' community engagement arrangements and the presentation and distribution of aircraft noise-related information to the general public.
- 2 The Minister Responsible for Airservices has set successive Statement of Expectations for Airservices (in accordance with section 17 of the *Air Services Act 1995*) which have addressed expectations for supporting the ongoing role of an independent ANO and implementation of agreed recommendations made by the ANO.
- 3 This Charter is intended to give effect to the policy intent of the Australian Government and the expectations of the Minister Responsible for Airservices.
- 4 In addition, through a Memorandum of Understanding, the functions of the ANO have been extended to apply to Department of Defence (**Defence**) for Australian Defence Force flying operations in Australia.

Purpose

- 5 The ANO is an independent administrative office within Airservices that:
 - a) reviews the handling of complaints or enquiries made to Airservices or Defence about aircraft noise, including in respect of community engagement and presentation and distribution of information concerning aircraft noise;
 - b) monitors and reports on the effectiveness of community engagement processes relating to aircraft noise undertaken by Airservices and Defence;
 - c) monitors and reports on the effectiveness of the presentation and distribution of aircraft noise-related information by Airservices and Defence; and
 - d) undertakes systemic issue reviews of aircraft noise management by Airservices and Defence.
- 6 The ANO makes recommendations to Airservices and Defence for improvements relating to these matters.
- 7 The ANO acts with independence, integrity and impartiality in performing their functions and exercising their powers, and is not an advocate for any organisation, special interest group or person.
- 8 The review of a complaint by the ANO is free of charge for complainants. The ANO operates on a not-for-profit basis.

Section B: Governance

Part 2 – Functions and powers

Functions

9 The functions of the ANO are:

- a) reviewing administrative actions relating to the handling of noise enquiries and noise complaints by Airservices and, in particular, by the team responsible for handling noise complaints and information requests;
- b) reviewing administrative actions relating to the handling of noise enquiries and noise complaints by Defence;
- c) making recommendations to the Board or the Chief of Air Force for improvements in aircraft noise enquiry and complaint handling, noise information provision and community engagement;
- d) referring complaints that the ANO considers are outside the ANO's jurisdiction to the appropriate organisation;
- e) monitoring and reporting on the effectiveness of Airservices' and Defence's community engagement processes on aircraft noise-related issues;
- f) monitoring and reporting on the effectiveness of the presentation and distribution of aircraft noise-related information provided to the community by Airservices and Defence;
- g) undertaking systemic issue reviews of aircraft noise management by Airservices and Defence; and
- h) when invited to do so, providing feedback to Airservices or Defence on policies, procedures and practices relating to aircraft noise related community engagement and information presentation and distribution, which are under development or review.

10 In performing their functions, the ANO:

- a) will consider that Airservices is bound by statutory obligations as set out in a range of laws including but not limited to the *Air Services Act 1995*, *Environment Protection and Biodiversity Conservation Act 1999*, *Civil Aviation Safety Regulations* and *Privacy Act 1988*;
- b) will consider that Defence is bound by legal obligations as set out in a range of laws, Defence instructions and agreements;
- c) will assess the effectiveness of the community engagement processes of Airservices and Defence against each organisation's published procedures and relevant government and industry standards, as agreed between the ANO and the respective organisation from time to time;
- d) will assess the effectiveness of the presentation and distribution of aircraft noise-related information by Airservices and Defence against each organisation's published procedures and relevant government and industry engagement standards, as agreed between the ANO and the respective organisation from time to time;
- e) will do what in their opinion is appropriate with a view to resolving complaints in a cooperative, efficient, timely and fair manner;
- f) will proceed with the minimum formality and technicality;
- g) will seek the advice of Airservices and Defence on technical matters; and

- h) will be as transparent as possible, whilst also acting in accordance with confidentiality and privacy obligations.

Powers

- 11 In addition to any other powers conferred by this Charter, the ANO has, subject to this Charter, power to do all things necessary or convenient to be done for or in connection with the performance of their functions.
- 12 Without limiting paragraph 11 but subject to this Charter, the ANO has the power to do any of the following:
 - a) decide whether the ANO has jurisdiction under this Charter to consider a complaint and whether the ANO should exercise its discretion to exclude the complaint;
 - b) approve expenditure of the monetary resources allocated to the ANO by the Board;
 - c) recruit and manage their own staff, who will be employees of Airservices; and
 - d) select their own specialist advisors.
- 13 As the ANO is a contractor, and not an employee of Airservices (see paragraph 21), they are not permitted under the *Air Services Act 1995* to exercise delegated powers. As such, all decisions of the ANO that require the exercise of delegated powers (such as entering into contracts), will be given legal effect to by either an authorised staff member of the ANO or an authorised staff member of the Airservices Board Secretariat (**Board Secretariat**), as appropriate.

Part 3 – Appointment and accountability

Appointment

- 14 The Chairperson will ensure that a vacancy for the position of ANO is publicly advertised throughout Australia using major job search websites and/or the major metropolitan print media.
- 15 A selection committee comprising the Chairperson, a member of the Board of Airservices (**Board**) nominated by the Chairperson, one representative from Defence (nominated by the Chief of Air Force) and at least one independent person (that is, not a Board member or employee of Airservices or Defence) appointed by the Board, will make a recommendation to the Board.
- 16 The ANO is appointed by the Board. In making the appointment, the Board will have regard to the candidates' objectivity, qualifications, experience and relevant personal qualities.
- 17 The Board will appoint the ANO on terms and conditions as determined by the Board.
- 18 The ANO will generally be appointed for a three year term under a contract approved by the Board. The appointment may be extended for an additional term at the discretion of the Board. The Chief of Air Force will be consulted prior to any such extension.

Accountability

- 19 The ANO reports directly to the Board and operates independent of Airservices' executive and management structures.
- 20 The ANO is accountable to the Board and the Chief of Air Force for the reviews undertaken, including any recommendations made, in respect of Airservices and Defence respectively.

- 21 The person holding the position of the ANO is not an employee of Airservices, but rather reports directly to the Board of Airservices under the terms of this Charter and a contract for service.

Removal from office

- 22 The appointment of the ANO may be terminated on the grounds of incapacity, misconduct or other good cause following a resolution by the Board, subject to prior consultation with the Chief of Air Force.
- 23 The resolution by the Board will specify the grounds for termination and will be immediately provided to the Minister Responsible for Airservices.
- 24 Without limiting paragraphs 22 and 23, if the ANO becomes bankrupt or insolvent, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with their creditors or makes an assignment of their remuneration for their benefit, the Board will remove them from office.

Resignation

- 25 The ANO may resign their appointment by giving 60 business day's written notice to Chairperson and the Chief of Air Force.

Acting appointments

- 26 The Chairperson may appoint an acting ANO for a period of no more than six months during periods of extended leave or if the office is vacant until a new ANO is appointed. The Chief of Air Force will be consulted prior to such appointment.

Section C: Review of complaints

Part 4 – Jurisdiction of the ANO

Eligibility to lodge a complaint with the ANO

27 Complaints eligible for review by the ANO must be in relation to Airservices' or Defence's handling of an aircraft noise issue as outlined below. A complainant may be any legal person or community organisation.

Types of complaints that can be reviewed by the ANO

28 The ANO will review a complaint by a complainant about Airservices that arises from issues since 1 January 2010 in relation to Airservices' administrative actions relating to:

- a) the handling of civilian aircraft noise enquiries and complaints;
- b) community engagement processes and procedures relating to civilian aircraft noise; and
- c) presentation and distribution of civilian aircraft noise-related information.

29 The ANO will review a complaint by a complainant about Defence that arises from issues since 1 July 2014 in relation to Defence's administrative actions relating to:

- a) the handling of enquiries and complaints regarding aircraft noise from military Aircraft;
- b) community engagement processes and procedures relating to aircraft noise from military Aircraft; and
- c) presentation and distribution of information related to aircraft noise from military Aircraft .

30 In the event that a complaint is within the jurisdiction of the ANO, but the complainant has not first raised the matter with Airservices or Defence, the ANO will generally refer the complainant or transfer the complaint to Airservices or Defence but may in exceptional circumstances decide to investigate the complaint.

31 Where a complaint is not subject to investigation by Airservices or Defence, only the administrative actions of Airservices or Defence in referring or rejecting the complaint are subject to review by the ANO.

Complaints outside the scope of ANO jurisdiction

32 The ANO must not review a complaint to the extent that the complaint:

- a) relates to an action or decision taken by any Minister or any government agency other than Airservices or Defence;
- b) relates to Airservices' or Defence's safety practice or policy and does not involve any allegation of either maladministration or inappropriate application of the practice or policy that directly impacts on aircraft noise outcomes;
- c) is about whether Airservices or Defence has met confidentiality or privacy obligations unless the complaint is about confidentiality or privacy issues arising in the context of Airservices' or Defence's handling of an aircraft noise enquiry or complaint; or
- d) has been previously dealt with by the ANO or the Commonwealth Ombudsman, and there is insufficient additional information raised in the new complaint to warrant consideration by the ANO of the new complaint.

Discretion not to review a complaint

- 33 A complaint will not be reviewed if the ANO decides:
- a) that the complaint is outside the jurisdiction of the ANO, as set out under this Charter; or
 - b) to exercise discretion under this Charter not to review the complaint, as set out in paragraph 34.
- 34 The ANO may decide not to consider or continue to consider a complaint if the ANO considers this course of action appropriate, for example, because:
- a) there is a more appropriate place to deal with the complaint, such as in a court, tribunal or under another complaint resolution scheme such as the Commonwealth Ombudsman;
 - b) the complaint being made is frivolous or vexatious or lacking in substance; or
 - c) after the complaint is lodged with the ANO, the complainant commences legal proceedings against Airservices, Defence or the ANO that are related to the complaint.
- 35 If the ANO decides that a complaint will not be reviewed, the ANO will advise the complainant (and any other parties that are involved in and have been informed about the complaint) and provide reasons for the decision.

Review of other matters

- 36 Notwithstanding any other paragraph of this Charter, the ANO may review other matters as determined by the Board or Defence. If so, the procedures set out in Part 9 will apply to the review of such matters.

Part 5 – Process for review of complaints

Lodging complaints

- 37 A complainant will be required to lodge a complaint by referring the complaint to the ANO for consideration.
- 38 The complaint can be made by following the process outlined on the ANO website. The ANO may consider anonymous complaints unless it is impracticable to do so.
- 39 The ANO will provide information to assist complainants with this process on its website, and may also mail out information packs on request or by any other reasonable means of distribution for such information.

Provision of information by the parties to the complaint

- 40 The ANO may request that a party to a complaint provide the ANO with any information the ANO considers necessary in order to investigate a complaint.
- 41 The ANO may request that the information be provided within a timeframe specified by the ANO. When determining the timeframe, the ANO will have regard to what is reasonable in the circumstances and to the complexity or magnitude of the information requested.
- 42 A party to a complaint must agree to provide the requested information unless:
- a) providing the information would breach a duty of confidentiality to a third party and, despite best endeavours, the third party's consent to the disclosure of the information has not been able to be obtained;

- b) providing the information would breach a Court order or prejudice a current investigation by the police or other law enforcement agency;
 - c) providing the information would breach an operational, privacy, commercial-in-confidence, or Australian Government Security Classification System caveat; or
 - d) the information is not within the party's possession, power or control.
- 43 If the information is not provided, the ANO has the discretion to not investigate the complaint.
- 44 The ANO may request a party to a complaint to do anything else that the ANO reasonably considers may assist in the review of the complaint. This may include:
- a) requesting a party to a complaint to attend an interview (either in person or using technology to communicate);
 - b) requesting Airservices or Defence to review a complaint further; or
 - c) appointing an independent expert to report back to the ANO on a matter pertaining to the complaint.
- 45 Airservices and Defence will co-operate with the investigation of a complaint by the ANO, including by:
- a) providing access to relevant information and information systems, subject to any operational, privacy, commercial-in-confidence, or security-related caveats; and
 - b) answering relevant queries unless it can demonstrate that a response would involve an excessive or unreasonable workload.

Timeframes

- 46 Nothing in this Charter restricts the ability of the ANO to give a party to a complaint an extension of time (even if the original period, or the period as extended, has ended) should the ANO consider this appropriate.

Multiple complaints

- 47 The ANO may review multiple complaints as part of a single investigation if the complaints relate to similar issues and are otherwise within the jurisdiction of the ANO as set out under Part 4, both where the multiple complaints come from a single complainant or from separate individuals.

Rules of evidence

- 48 The ANO is not bound by any legal rule of evidence.

Complaint resolution criteria

- 49 The ANO will do what in their opinion is fair in all the circumstances, having regard to each of the following complaint resolution criteria:
- a) Airservices' and Defence's statutory obligations;
 - b) sound administrative practices, including whether Airservices or Defence have acted fairly and reasonably having regard to all of the circumstances;
 - c) applicable industry regulations, codes or guidance;
 - d) good industry practice; and
 - e) previous relevant decisions of the ANO or the Commonwealth Ombudsman.

50 Nothing under paragraph 51 prevents the ANO from providing comment on any of the above matters where this may assist the management of aircraft noise issues.

Specialist input

51 When reviewing a complaint, the ANO will consult with Airservices or Defence as applicable in the first instance, and seek access to Airservices' or Defence's specialist advisors as the ANO thinks appropriate.

52 If the ANO seeks advice from a specialist advisor who does not work for Airservices, Defence or another agency of the Australian Government, and the provision of advice does not require the ANO to incur any expense, the ANO will notify the Chairperson or Chief of Air Force, as appropriate, within seven days of seeking such advice. Such advice may include advice on continuing future use of that expert advisor.

53 In the course of performing their duties, the ANO may obtain advice from other specialist advisors at the cost of Airservices or Defence as applicable, with the agreement of the Chairperson or the Chief of Air Force.

Obligation to provide information to the parties to a complaint

54 The ANO may provide the parties to a complaint with access to certain documentation, information and material that is not public information, on which the ANO proposes to rely in forming recommendations, with the agreement of the Chairperson or the Chief of Air Force, as appropriate.

55 Notwithstanding paragraph 54:

- a) the ANO is not obliged to make available to the parties to a complaint any memoranda, analysis or other documents generated by employees or contractors allocated to provide support to the ANO; and
- b) the ANO must not disclose to a party to a complaint information provided by another party to the complaint where the party supplying the information has refused consent to this (and, in the absence of a clear statement to the contrary, the ANO is entitled to assume that consent is given to the material in its entirety being provided to the other parties to the complaint).

56 If a party to a complaint refuses consent to provide information to another party to the complaint, the ANO is not entitled to use that information to reach a decision adverse to the party to whom confidential information is denied, unless the ANO determines that exceptional circumstances apply.

Part 6 – Process for making recommendations relating to complaints

Process for making recommendations

57 After giving the parties to a complaint a reasonable opportunity to make submissions and provide information about the matters in a complaint, the ANO will make an assessment of the complaint. The ANO will provide this assessment to Airservices or Defence as appropriate and allow the relevant party a reasonable opportunity to resolve the matter.

58 If in the opinion of the ANO, Airservices or Defence do not respond appropriately after a reasonable opportunity to resolve the matter, the ANO may issue a report which includes recommendations to the Board or the Chief of Air Force. The report and recommendations will:

- a) be in writing; and
- b) provide a rationale for any conclusions about a complaint.

59 If the ANO determines to issue a report to the Board or the Chief of Air Force, the ANO must first prepare a draft report and give any party to the complaint who is directly adversely affected or criticised by it an opportunity to respond within a reasonable time period. The ANO must consider any response received, and make any amendments to the draft report that the ANO considers appropriate, before it is submitted as a final report to the Board or Chief of Air Force, as appropriate.

Publication and communication of reports and recommendations

60 The reports and recommendations of the ANO in relation to complaints concerning Airservices will be provided to the Board.

61 The Board must consider and respond to a report and recommendations from the ANO at its next or subsequent meeting.

62 Once the Board has responded, the report and recommendations of the ANO, and Airservices' response, will be made public by the ANO. In the event the Board does not agree with a report or recommendations of the ANO, a joint statement, approved by the Chairperson and the ANO, will be released on the ANO and Airservices website outlining the basis of the position of the ANO and the Board's response.

63 The reports and recommendations of the ANO in relation to complaints concerning Defence will be provided to the Chief of Air Force.

64 The Chief of Air Force must consider and respond to a report and recommendations from the ANO as soon as practicable and, in any event, within 60 days.

65 Once Defence has responded, the report and recommendations of the ANO, and Defence's response, will be made public by the ANO. In the event Defence does not agree with a report or recommendation of the ANO, a joint statement, approved by Defence and the ANO, will be released on the ANO and Defence website outlining the basis of the position of the ANO and Defence's response.

66 For all reports and recommendations, the ANO will provide written advice to the complainant on the outcomes of the review.

67 Notwithstanding paragraphs 61 and 64, the ANO may determine, having regard to all of the circumstances, to not publish a report and recommendations submitted to either the Board or Chief of Air Force, including the response from Airservices or Defence, if the ANO determines there is not a public interest in publishing the report, or doing so would cause an unreasonable detriment to the complainant. If the ANO makes such a determination, then any joint statement that may be issued under paragraphs 61 and 64 will not be released.

Part 7 – Process for assessing implementation of agreed recommendations

68 Following the conclusion of the process in Part 6, and after allowing a reasonable time period (in the circumstances) for Airservices or Defence, as appropriate, to implement one or more of the recommendations which they have been agreed to, the ANO may assess the implementation of the recommendations. In assessing the implementation of recommendations, the ANO will form a view on the timeliness and adequacy of the implementation. 'Adequacy' is to be assessed having regard to whether the identified aircraft noise risks and/or issues for Airservices, Defence and/or the affected stakeholders have been reasonably addressed.

69 The ANO may report on the outcomes of their assessment in the quarterly report (see paragraph 91), and may also include in the report any other relevant facts or considerations.

70 Further assessments by the ANO may be undertaken, if the ANO was of the view in the previous assessment that the implementation of one or more of the agreed recommendations was incomplete or inadequate. The ANO may report on the outcomes of their subsequent assessments in the quarterly report (see paragraph 91).

Section D: Monitoring activities and reviews of systemic issues

Part 8 – Process for monitoring and reporting performance

Scope of monitoring activities

- 71 The ANO will monitor and report on the general effectiveness of Airservices' and Defence's community engagement processes and the presentation and distribution of aircraft noise related information (**monitoring activities**).
- 72 The ANO will prepare terms of reference to provide a scope for undertaking their monitoring activities and reporting on them.
- 73 The ANO will submit the proposed terms of reference to the Board or the Chief of Air Force, as appropriate, at least two months prior to the commencement of intended time period for the monitoring activities. The Board or Chief of Air Force, as appropriate, and ANO will agree on the final terms of reference prior to the commencement of the monitoring activities.

Provision of information

- 74 Within the scope of the agreed terms of reference for monitoring activities, the ANO may request that Airservices or Defence provide the ANO with any information the ANO considers necessary in order to effectively conduct the monitoring activities.
- 75 Airservices and Defence must agree to provide the requested information unless:
 - a) providing the information would breach a duty of confidentiality to a third party and, despite best endeavours, the third party's consent to the disclosure of the information has not been able to be obtained;
 - b) providing the information would breach a Court order or prejudice a current investigation by the police or other law enforcement agency;
 - c) providing the information would breach an operational, privacy, commercial-in-confidence, or Australian Government Security Classification System caveat; or
 - d) the information is not within their possession, power or control.

Reporting on monitoring activities

- 76 The ANO may, in undertaking monitoring activities, report to the Board or Chief of Air Force, as appropriate, on the general effectiveness of Airservices' and Defence's engagement processes and the presentation and distribution of aircraft noise related information.
- 77 In preparing the report, the ANO must first prepare a draft report and give Airservices and Defence, as appropriate, an opportunity to respond within a reasonable time period. The ANO must consider any response received, and make any amendments to the draft report that the ANO considers appropriate, before it is submitted as a final report to the Board/Chief of Air Force.
- 78 The Board must consider the report from the ANO at its next or subsequent meeting. The Board will determine the subsequent actions, including the response to the report, whether to publish the report and the process for the ANO assessing implementation of any agreed recommendations.
- 79 The Chief of Air Force must consider the report from the ANO as soon as practicable and, in any event, within 60 days. The Chief of Air Force will determine the subsequent actions, including the response to the report, whether to publish the report and the process for the ANO assessing implementation of any agreed recommendations.

Part 9 – Reviews of systemic issues in aircraft noise management

- 80 The ANO may, from time to time, undertake systemic issue reviews of aircraft noise management by Airservices and Defence (**systemic issue review**).
- 81 A systemic issue is an issue that will have a broader effect on Airservices' or Defence's systems, processes, procedures or actions which are intended to manage the impacts of aircraft noise.
- 82 In the course of reviewing a complaint (including multiple complaints) or undertaking monitoring activities, the ANO may consider whether they have identified a systemic issue in which there is a public interest in it being the subject of an independent review.
- 83 If the ANO forms the view that a systemic issue review is warranted, then in conducting a systemic issue review, the preparation of terms of reference, the provision of information and reporting shall all occur in a manner comparable to the process described in Part 8.

Section E: Conduct, reporting and administration

Part 10 – Conduct

- 84 In the course of performing their duties, the ANO and any staff of the ANO:
- a) must strive for impartiality, fairness and objectivity in the treatment of people and the consideration of issues;
 - b) must not be, or be able to be perceived as, an advocate for Airservices or Defence or for any special interest group, agency, company or person;
 - c) must not give rise, through their conduct, to a reasonable apprehension of partiality, bias or prejudice;
 - d) must not hold any other position within an organisation which might compromise their independence;
 - e) must consider the legitimate concerns and interests of all parties affected by matters under consideration; and
 - f) endeavour to be worthy of the trust placed in the office of ANO.
- 85 Where the ANO has or acquires any interest, pecuniary or otherwise, that could conflict or be perceived to conflict with the proper performance of their functions in relation to a matter:
- a) they will disclose in writing the interest to the Chairperson or the Chief of Air Force, as appropriate; and
 - b) except with the consent of all the parties to the matter and the Chairperson/Chief of Air Force, they will not take part in the matter.

Part 11 – Reporting

Data collection

- 86 The ANO must collect and record data pertaining to complaints which is, in the opinion of the ANO, sufficient to provide comprehensive information on the activities of the ANO and identify systemic issues and other trends in aircraft noise management by Airservices and Defence.

Annual reporting

- 87 Following the conclusion of each 12 month period ending on 30 June, the ANO must prepare an annual report.
- 88 The ANO may determine the content and presentation of the annual report, but will endeavour:
- a) to include content that provides a comprehensive summary and analysis of the data collected (see paragraph 86); and
 - b) to the extent practicable and appropriate in the circumstances, align the content and presentation with the requirements for annual reporting by corporate Commonwealth entities specified in the *Public Governance, Performance and Accountability Rule 2014* and any supporting guidance issued by the Australian Government (as amended from time to time).
- 89 The ANO must ensure that the annual report is:
- a) submitted to the Board and the Chief of Air Force by the 31st day of the August after the end of the reporting period; and

- b) published on the ANO website, within 7 days after being notified by the Board Secretariat that Chairperson has submitted the annual report to the Minister Responsible for Airservices.
- 90 The Chairperson must submit the annual report to the Minister Responsible for Airservices by the 15th day of the October after the end of the reporting period.

Quarterly reporting

- 91 Following the conclusion of each 3 month period in each year commencing on 1 July, the ANO must prepare a quarterly report. The quarterly report will include:
- a) a summary of the significant activities of the ANO;
 - b) complaint statistics for the quarter;
 - c) any recommendations made by the ANO relating to complaints and the actions taken by the Board or Chief of Air Force, as appropriate, in respect of the recommendations (but only when the relevant report has already been published);
 - d) disclosure of where the ANO has provided to Airservices or Defence feedback of the nature contemplated in paragraph 9(h); and
 - e) the outcomes of any assessment undertaken by the ANO in accordance with Part 7.
- 92 The ANO must ensure that the quarterly report is:
- a) submitted to the Board and the Chief of Air Force by the end of the sixth week after the end of the reporting period; and
 - b) published on the ANO website, within 7 days after being notified by the Board Secretariat that Chairperson has submitted the quarterly report to the Minister Responsible for Airservices.
- 93 The Chairperson must submit the quarterly report to the Minister Responsible for Airservices by the end of the ninth week after the end of the reporting period.
- 94 The Board must provide a copy of the quarterly report to the Minister Responsible for Airservices (copied to the Secretary of the Department responsible for Airservices).

Part 12 – Administration

Strategic Planning

- 95 Every three years the ANO will prepare a strategic plan to guide the work of the ANO. The strategic plan should identify upcoming initiatives and challenges, and outline the strategy for continuing to meet the requirements of this Charter. Whenever practicable, the time period for the strategic plan will align with three financial years.
- 96 In preparing the strategic plan, the ANO will have regard to:
- a) the requirements of this Charter;
 - b) the policy priorities of the Australian Government, as expressed through any relevant policy statement or directive issued by the Minister Responsible for Airservices or the Minister Responsible for Defence;
 - c) the corporate plans and other relevant plans, policies or procedures of Airservices and Defence relating to the management of aircraft noise;
 - d) planned developments in the civil or military aviation sectors, or by other significant Australian airspace users, relating to flight paths, infrastructure, aircraft fleets, frequency of flights, military exercises and operations and any other known significant changes affecting aircraft noise;

- e) planned activities by Airservices and Defence regarding aircraft noise related community engagement and the presentation and distribution of aircraft noise related information; and
 - f) any other matter that the ANO considers to be relevant.
- 97 The ANO will submit the proposed strategic plan to the Board and Chief of Air Force for their feedback at least four months prior to the commencement of the period for which the strategic plan relates.
- 98 The ANO may prepare a new or amended three-year strategic plan before the conclusion of an existing three-year period, when the ANO forms the view that the circumstances of the operating environment of the ANO have changed to an extent that warrants a change in the strategic plan.

Resourcing

- 99 Airservices and Defence are responsible for funding the activities of the ANO. Defence provides funding for the ANO, through Airservices, in accordance with a periodic agreement between Airservices and Defence, which may be extended and amended from time to time.
- 100 Every three years, and in conjunction with the preparation of a strategic plan, the ANO will prepare a proposal for the resourcing of the ANO for the coming three-year period. The proposal will demonstrate clear linkages between strategic plan and the resources required to deliver it. Whenever practicable, the time period for the resourcing proposal will align with three financial years.
- 101 The ANO will submit the resourcing proposal to the Board for its consideration and approval at least four months prior to the commencement of the period for which the proposal relates.
- 102 If the ANO forms a view that a new or amended three-year strategic plan is required in accordance with paragraph 98, a new proposal for the resourcing of the ANO may be submitted to the Board for its consideration and approval.

ANO staff

- 103 The ANO may select their own staff, subject to the funding allocated to the ANO by the Board. The staff of the ANO are to be engaged as employees of Airservices. ANO staff will operate on a day to day basis independent of the Airservices' executive and management structures and under the direction of the ANO.
- 104 The ANO is responsible for managing ANO staff, and will do so in a manner consistent with all relevant policies and procedures of Airservices, including in respect of work health and safety, equal employment opportunity and discrimination and harassment. This paragraph applies to the extent that adherence to relevant policies and procedures of Airservices does not unreasonably impinge on the performance of the functions of the ANO as an independent administrative office.

Management of this Charter

- 105 This Charter is a public document and is to be published on the websites of the ANO, Airservices and Defence. Superseded Charters will also be published on the ANO website, along with their start and end dates.
- 106 This Charter is to be reviewed at least once every three years. A review can be initiated by the ANO, the Board or the Chief of Air Force.
- 107 Any alteration of this Charter must be agreed to by the Board and the Chief of Air Force, following consultation with the ANO.

108 When a new or revised Charter takes effect:

- a) the Chairperson will advise the Minister Responsible for Airservices;
- b) the Chief of Air Force will advise the Minister Responsible for Defence; and
- c) the parties will ensure a joint statement is published on the ANO website that explains the reason for the changes.

Protocols

109 To aid with the application of this Charter, Airservices and Defence may separately or jointly establish with the ANO written protocols to describe in greater detail specific matters addressed in this Charter, and/or to define the respective roles and responsibilities:

- a) between the ANO, the Board and Airservices management; and
- b) between the ANO, the Chief of Air Force and relevant operational areas of Defence.

110 Approval of the contents of any such document rests with the Board and/or Chief of Air Force, as appropriate.

Section F: Legal and other matters

Legal or other proceedings

- 111 Where a complainant lodges a complaint with the ANO, Airservices and Defence must not instigate any proceedings against the complainant relating to any aspect of the lodgement of the complaint.
- 112 If a complaint is subsequently reviewed by the ANO and the recommendation is accepted by the Board or the Chief of Air Force, Airservices or Defence will abandon any aspect of proceedings against the complainant that are inconsistent with that decision.

Defamation protection

- 113 Neither Airservices nor Defence will instigate defamation action against a complainant in respect of allegations made to the ANO by the complainant about Airservices or Defence in relation to a noise complaint.

Confidentiality obligations

- 114 The ANO must keep confidential all information pertaining to a complaint that is provided to the ANO except:
- a) to the extent reasonably necessary to carry out the responsibilities of the ANO, including under this Charter or for any incidental purpose; or
 - b) as required or permitted by law.

Non-compliance with this Charter

- 115 The ANO may make a written complaint and recommendation:
- a) to the Board, where the ANO believes Airservices has failed to meet its obligations under this Charter; or
 - b) to the Chief of Air Force, where the ANO believes Defence failed to meet its obligations under this Charter.

Review of ANO decision

- 116 If a complainant objects in writing to a decision made by the ANO, the ANO will re-consider the matter and provide a final decision setting out, as relevant, the reasons for the exclusion or decision to proceed to review.
- 117 Objections must be raised within 30 days and the ANO will provide information on options for review of ANO decisions on its website and published material. As appropriate, the ANO will undertake reasonable steps to advise individual complainants of this information about review processes.

Section G: Definitions

In this Charter, unless the contrary intention appears:

Aircraft noise refers to noise generated by all operations by international, domestic and regional airlines, general, sport and recreational aviation using aircraft, helicopters, balloons and other forms of air transportation, and Australian and foreign military flying operations.

Airservices means Airservices Australia, the body corporate of that name established by the *Air Services Act 1995*.

ANO means the Aircraft Noise Ombudsman.

Australia includes the external territories.

Board means the Board of Airservices Australia, as established by the *Air Services Act 1995*, and includes any committee or person nominated by the Board, from time to time, to act on their behalf. References in this Charter to the submission of a report or any other document to the Board shall be interpreted as meaning submission to the Board through the Board Secretariat.

Chairperson means the Chairperson of the Board of Airservices Australia, and includes their delegate.

Chief of Air Force means the officer within the Australian Defence Force appointed from time to time as the Chief of Air Force, and includes their delegate.

Complainant means any person or community organisation who or which has made a complaint to the ANO under the ANO Charter.

Defence means the Department of Defence, including the Australian Defence Force.

Military aircraft means any aircraft used by an Australian or foreign military force.

Minister Responsible for Airservices means the Minister responsible for the *Air Services Act 1995*, unless otherwise stated.

Minister Responsible for Defence means the Minister responsible for Defence, unless otherwise stated.

Party to a complaint means the complainant, Airservices, Defence and any other legal person or community organisation with an active interest in the complaint.

Review includes an investigation of facts relevant to any of the functions of the ANO.