



Presenter – Graham Mabury

Guest – Chris Field, Western Australian Ombudsman

Graham Mabury: Yes indeed and it's lovely to catch up with him again. Chris, welcome back.

Chris Field: Graham, absolute pleasure.

Graham Mabury: Good to have you with us. I think one little aspect of your work, we've covered each of your visits that the Ombudsman is there to check process, not outcome. The outcome is not – so if you didn't like the outcome, but the process was faithfully followed then that's not the Ombudsman's thing. But if the process wasn't properly followed you can certainly get involved. But also, we've mentioned this briefly, but it would be good to hear a little bit about it from you. If you've gone through a process and you feel that what's come out of it is a fundamental injustice or a fundamental denial of due process in the way the legislation works, it may not have been what the politicians intended, probably wasn't, but you've run into it. But if someone in that situation makes the Ombudsman aware, and you think there is a problem here, you can recommend to the Parliament that they look at it?

Chris Field: Yes that's exactly right, and you were giving a terrific introduction may I say, Graham at the top of your program about exactly that issue. At the end of the day the Ombudsman is an officer of the Parliament, and it looks to see how the laws of Parliament have been administered by public servants in the State, by Public Administrators. And if we see something that we think should be remedied in certain ways, we can make that recommendation. So a recommendation to the Minister, to the department for that to be done. If the recommendation ultimately wasn't accepted, then that recommendation can be provided to Parliament. And we also table major investigations, and those recommendations are also tabled in Parliament as part of those major investigations.

Graham Mabury: It must be reasonably often I would reckon that legislators, that drafting officers do the best they can. Sometimes this legislation is moved in pretty quickly, and then when it's got to be applied, there are all sorts of glitches that turn up that weren't the intent of the legislation. But it's the effect of its implementation.

Chris Field: Absolutely correct. And as you say, most work is being done with good intentions. But as you also mentioned at the top of your program, sometimes there are unintended consequences. Sometimes in the administration something might go wrong. And where that happens, the Ombudsman is your independent umpire, reporting directly to Parliament not to the government of the day, impartial in everything that we do. And if we see something that needs to be remedied we can make a recommendation that that occurs.

Graham Mabury: Something just before we take Jeannette's and Stuarts, they're with us, they'll be first up. You've been wise enough to ring through very quickly. But just before we have a break and come back with those two callers, and you too I hope listeners, because we want you to keep Chris busy. You said the word then about impartiality. Just lately I've had a couple of situations, and in both cases I've suggested that your department is where the concern should go, where people have had either, it seemed to me, at least grounds for reasonable doubt about the impartiality of an officer that was employed to do something or other in a review process, so I just don't think you're impartial enough. Or where there's a perception that there's a conflict of interest that hasn't been declared. If you investigated that and found that to be the case, of course that would be grounds for saying the process is fatally flawed.

Chris Field: Absolutely correct. Certainly both at administrative law, but also, and that's of course underlying much of what an Ombudsman looks at. These ideas that processes are fair revolve around a range of issues and two of the critical ones you've mentioned are that people who make decisions are impartial. And another is of course that they don't act in such a way that they have an actual conflict of interest or a perceived conflict of interest. If those things occur and they are not managed and dealt with appropriately, that can be a reason why a process will be flawed, and the Ombudsman may need to make a recommendation to have that matter remedied.

Graham Mabury: And I have to say to you folks that the Ombudsman's recommendations are almost always, a little bit like the Godfather's offers, they're not usually refused I have to say. Not that there's any similarity in the operation of course.

Chris Field: They never come with a horse's head.

Graham Mabury: No they never do. But they do come with a fair weight of - no in fact it's overwhelmingly the case that the recommendations are acted on. However, we will come back with the Ombudsman himself. Chris Field will stay with us. Jeannette and Stuart, you get to go first, but folks if you are in dispute with a government department or in any dealings with a government department or any energy supplier, you feel as though the sort of things we been talking about, there's either been an injustice which is actually woven into the system, or the system hasn't been properly applied in your case, call right now. 9221 1882.

[BREAK]

Graham Mabury: Chris Field the Ombudsman is with us. Your chance to go direct to the umpire, who reports to the Parliament not the Government. Jeannette, you get to go first.

Jeannette: Thank you Graham, and just before I tell Chris my question, we are going to miss you. I just want to thank you for all the good times over the last 30 years.

Graham Mabury: Jeannette, thank you.

Jeannette: Chris, we had 8 solar panels installed a couple of years ago, while they were still doing the 40 cent rebate.

Chris Field: Yes.

Jeannette: My electricity account I got last week was \$279.30. I rang Synergy and queried it, and the best they could say is they only do the accounts, maybe the smaller accounts were wrong. Because two accounts before that were under \$20 each. Which seems really good for having the power panels.

Graham Mabury: So you've gone from two accounts of \$20 Jeannette, to one of over \$200.

- Jeannette:** Yes, and the two before that, the two before the under \$20 ones, were both just under \$300. So we get a couple of little baby ones, and then a couple of enormous ones. An electrician came and checked our meter. He asked us to read it daily and keep a record. And he said according to the record we were using the same amount of power day and night, peak and off-peak. It seems strange, because there are only two old people living in this house, with not a lot of technology happening.
- Graham Mabury:** And it would seem odd at first blush to think you would be using the same power in an off-peak period as you would, that you'd be using the same power day and night.
- Jeannette:** That's right.
- Graham Mabury:** That doesn't seem right either. Alright, Chris.
- Chris Field:** Jeannette, thank you so much for your call, which Graham and I both appreciate. I wanted to say that as Graham's listeners would know, that I am in addition to the State Ombudsman also the Energy and Water Ombudsman. We commenced our Water Ombudsman function of the first of January this year, so of course –
- Graham Mabury:** Ah, so that's a new one. We will talk about that one in a moment.
- Chris Field:** We will certainly talk to Jeannette about electricity because of course that is what you're concerned about. Synergy, Western Power and other electricity providers in the State, are within my jurisdiction. Now you've done the right thing Jeannette, and that is what we would encourage all consumers to do, and that is to go to the relevant provider, and that will regularly be of course Synergy as the retailer, in the first instance, and raise your concerns with them. Where that issue hasn't been resolved, then what you can do is come to the Energy and Water Ombudsman scheme. And what we can do for you is talk to you, understand the exact details of those issues, and solar power issues sometimes need just a little bit of looking to make sure we've got the full details there. And then we can refer that matter back and work with Synergy to make sure that you're satisfied that the issue has been resolved appropriately and satisfactorily. So what I'm going to suggest, having said all that is we'd be delighted to assist you with that Jeannette, and if you wanted to leave your number with Graham's producer Royston off air, we will call you. And we will call you tomorrow.
- Graham Mabury:** Jeannette we will put you back on hold. Just give Royston your permission, and someone will be in touch with you about that. And that's exactly what we hope you will do, excuse me nightline family it's been a long couple of days. That's exactly what we hope you will do. Keep Chris busy, and we can point you in the right direction or put the appropriate team member on to sort that out. Stuart, go ahead.
- Stuart:** Hi Graham, how are you going?
- Graham Mabury:** Good thank you buddy, you're concerned about the Police?
- Stuart:** Well, it's a legislation problem I think, and I'm not sure whether Chris can help or not. But I got a speeding fine, guilty as charged, and it was due on the 4th of March, the payment. And I was watching a TV show, the wife reminded me to pay it. I jumped online about 9:20, and it rejected the payment. When I rang up the next day, I was pointed to the fine print on the fine that said it has to be paid by 9:00 Western Standard Time. Now, all the modern technology we have these days, everyone does their internet banking, and everything goes to midnight Western Standard Time, or 3:00 in the morning or 2:00 in the morning over East. And since then it was the legislation that it couldn't be changed, or it would need to be changed by Parliament. Why have we only got to 9:00, when I had to pay it on the 4th of March? I tried to pay it on the 4th of March, I still had 3 hours left. But it was rejected.

Graham Mabury: Fair question, Stuart. Chris.

Chris Field: Stuart, thank you so much for your call, and a really interesting question. Look I'm not specifically familiar with, I can understand exactly the point you're making that you're suggesting there's a midnight cut-off at what would be Eastern Standard Time and therefore 9pm Western Standard Time. I'm not specifically familiar with that cut-off, nor whether it's regulatory legislation or regulatory based. I think in the particular circumstances, and it's a fairly specific concern, not in any way to say it's not an important one you've raised Stuart. I'll make this general comment, and then perhaps try to assist you more specifically. The general comment is this, that a range of police matters are still dealt with, Graham by the Western Australian Ombudsman's Office although the bulk of matters in relation to Police are dealt with by the Corruption and Crime Commission. And certainly in relation to these sorts of matters, there are a range of internal processes, court and other processes where fine disputes can be dealt with. But because of the particular circumstances of your case Stuart, I really do think if you were happy to give your number to Royston, we can give you a call tomorrow and just get a little bit more of the detail of that case and see if there anything else that we can assist you with in terms of the understanding of it.

Graham Mabury: Especially if it were that the cut-off is legislated in some way, because then you could, if it were appropriate, you can recommend that the Act be reviewed. And at least you'd have till midnight over here. Stuart, interesting question. Thank you very much. We have Mavis coming up next. Our guest in the studio is the State Ombudsman. Just before we go to Mavis though, tell us about the new role. Water Commissioner.

Chris Field: Yes, we commenced the role as the Water Services Ombudsman but are now simply describing ourselves as the Energy and Water Ombudsman Western Australia, and that commenced from 1 January of this year. So Water Corporation and other water providers are now within the jurisdiction of the Water Ombudsman. So the same sort of rule, we would always apply the same encouragement we would always give to consumers. Take your concerns to your water provider, typically for most people the Water Corporation, living in Perth, surrounding areas and let them attempt to resolve the issue for you. If it remains unresolved, certainly don't hesitate to bring it to the Energy and Water Ombudsman.

Graham Mabury: Ok, Energy and Water Ombudsman now. So that's a very interesting development, and one I now recall. Should have thought of it sooner though. 16 to 9 and Mavis you get to go next. But folks do call. I reckon we could fit at least one other call in, maybe two, 9221 1882. Chris Field the State Ombudsman, is here.

[BREAK]

Introduction: Now on Nightline, it's your direct line to the Ombudsman.

Graham Mabury: It is, and Mavis has used it. Mavis, go ahead, Chris is listening.

Mavis: Hi. This is a problem in our public hospital system. It's not actually a personal one, but it's one that, an issue that I've raised with one of our public hospitals, that hasn't been resolved. It's over a person using the public hospital system and has a free operation in one of our public hospitals, like an old lady having a major hip operation. That's all free, but when she goes back to have a check-up with the doctor that did her hip operation, you are told that before she can see the doctor, she has to pay \$70 up front. When I raised the issue about this I was told well that's how it is. Anyway, I rang the particular hospital and started on about this issue. The administrator of the hospital agreed with me that this is highly unfair because a lot of pensioners and people, it depends on the hospital you go to. Apparently a public hospital that has an outpatient's clinic, they get their operation free and their check-up free.

Mavis (continued): If the public hospital doesn't have one, then they have to pay. I've heard people say sometimes they haven't been for their check-up because they can't afford it. They get some back from Medicare, but not all of it. Now for me, this is highly, highly unfair, because why should people in the public hospital system who don't have, like this person involved was my mother, had no choice which hospital. She fell and was taken to a hospital but she had to pay up front, where if she had gone to a different hospital and had her check-up there, nothing would have happened. The administrator agreed the system is wrong, but it is still out there, and something needs to be done about it.

Graham Mabury: So Mavis what you're saying is, let's take the case of this. Your mum falls, has a broken hip or some such, she's taken to the nearest hospital, and she goes in as a public patient and therefore doesn't choose her specialist. But then it transpires that these two things over which she had no choice or control, lead to her now being in a hospital which doesn't have a funded or a public patient post-operative clinic. So she's having to find \$70 up front to see the doctor who did the operation.

Mavis: Yes.

Graham Mabury: Yes, thank you, Chris.

Chris Field: Thanks Graham, and also thanks so much to you Mavis, for raising this issue. And it's important for listeners to know that public hospitals are within the jurisdiction of the State Ombudsman. And the issue you've raised Mavis, is an issue that will have I suspect a little bit of complexity to it in relation to a range of different funding arrangements and the provision of healthcare generally. You're not raising it as an issue in relation to a personal complaint, but I know it's one where you have been clearly affected and sufficiently interested to raise it with Graham and myself tonight. So what we could do, and the Ombudsman is able of its own motion to examine issues. I think it would be good if there was an appropriate answer we could provide to you Mavis, and we could simply ask the Department of Health. There may be, as it eventuates, a very sensible and appropriate answer. It may also be that further work could be done on the issue. I won't pre-judge that. What I'll simply say, because I'm not as sufficiently aware of the details of the particular issue. But if you're prepared to give your details to Royston we would certainly be delighted to call you, have a talk about the issue in particular, and then make some enquiries.

Graham Mabury: Good on you Mavis. Don't hang up, Royston will be with you in a moment. Chris, a couple of things before we let you go on your way rejoicing, thanking you for your time once again. I must say, recently I've had a couple of situations where people have chatted to me off air and they have, what you said then about information about where the process is at, and in both cases, probably the vast majority of the pain and frustration they were feeling, was that they simply had no idea what had happened, where the process had gone to. They had raised an issue, and it seemed to have vanished without trace. There was no email, there was no phone call. When they rang up they couldn't get onto one person who could say, and I actually said to one of them, and I just want to see how this matches with your experience. I actually said to one person, would it have been easier for you if you had been kept informed of the process regularly. Even if you hated the outcome, at least you knew, even if the process wasn't going where you thought it should or hoped it would, at least you knew something. And he said it would have taken the vast majority of the frustration away.

- Chris Field:** Look, Graham that resonates so strongly with the experiences of not just my Office, but office's like mine around the world. And that is, people do require and want, and deserve levels of information about how processes are transpiring. And that sort of level of information can be a big, big step to them feeling comfortable about the process, that the process has been effective. It is surprising how many times people don't necessarily get exactly what they asked for, but if they thought the process was communicative, fair and respectful, that they will actually be very happy with the result. And I think that's one of the critical things we have to keep in mind.
- Graham Mabury:** And sometimes it does, I mean in my own case I had a situation where I applied for a review of something, and the review wasn't successful. But at least it was transparent, I was informed. About the only reaction I had then, back to the reviewing body was, can you be much more effective in your education process so people realise they could find themselves in this situation in the first place. And I guess that can be a natural follow-on, that by all means let people know what's happening in the process as it unfolds, but also do everything you can to make sure they know what can happen, they are informed of what the options are. What are the choices and what are the consequences.
- Chris Field:** Yes, look you've hit it in a nutshell. That's exactly the sort of thing that people want, and that makes them happy with the process and happier with the outcome.
- Graham Mabury:** So Chris, if people do have something, and they think you know I think this is an Ombudsman, I've done all I know to do, and it's not just that the answer is no and I hoped it would be yes, I really do think there is an issue here, or a process is not being applied, or there are conflicts of interest or whatever, what do they do for getting in touch with the Ombudsman?
- Chris Field:** Well I'm going to say two things Graham. I'm going to go an indulgence on the second. I'm going to answer you directly on the first. The first is 9220 7555, and www.ombudsman.wa.gov.au. On indulgence, I'll simply say this. My enormous congratulations to you for an extraordinary 33 years, and for inviting me a few years ago to join the Nightline family. It has been a privilege and a pleasure to work with you.
- Graham Mabury:** Thank you very much Chris, it's been a wonderful thing that you've made yourself available to the people of the State. I think it greatly helps, it's exactly what we've been talking about. They were leading questions to say exactly as you were doing tonight, to let our listeners know how the processes of review work.

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