



Presenter – Graham Mabury

Guest – Chris Field, Western Australian Ombudsman

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

Graham Mabury: Indeed, and I always think it's fantastic, a great privilege actually that we are able to have the Ombudsman come and join us. The ultimate umpire, the Parliamentary Commissioner, appointed by the Parliament, not the government, totally independent, and the person to whom all the government department's answer, and prepared to come into the studio and take your calls. That's fantastic service for you, our Nightline family. It's what we love, and it's good to have you back Chris. Welcome.

Chris Field: That's a very generous introduction Graham, and it's always my pleasure to be here.

Graham Mabury: 16 times now. Time flies when you're having fun.

Chris Field: The only problem for me, and probably you, is I remember the first time. So time really does fly doesn't it Graham.

Graham Mabury: The older you get, the faster it flies. And I've got a good few years on you, I have to say. Last night I was talking to Warwick Gately, the Electoral Commissioner, and just chatting with him about, ok right now what is your role. And the similarity with your own struck me because he was saying, well I'm not interested in, I have no interest in who wins each seat, but I have a very close interest in how the count is conducted. How the votes were gathered, and how the count is conducted. Because he said our procedures are very clearly prescribed in law. My focus is purely on, have we dotted every I and crossed every T. Was the process followed absolutely and faithfully, and who wins, I don't care. In the same way in your own case, its all about the process not about outcome.

Chris Field: Yeah that's completely right. I mean Warwick and his team are very good, and quite correctly as you say there are a number of public officials who are independent and who basically are there to make sure that legislation and other matters are administered correctly, done correctly. So yes there are a number of parallels between a number of the public officials.

Graham Mabury: And does it, does the Public Trustee answer to you? Is that one of the – in the handling of stuff, if someone was unhappy with how an estate was being handled by the Public Trustee –

Chris Field: Yes they are in our jurisdiction.

Graham Mabury: So they could bring that to you?

Chris Field: Yes they could, absolutely.

Graham Mabury: That's one we've never mentioned. So folks if that's relevant to you, if you've got some difficulty or dealing – I'm not suggesting they don't do a wonderful job – but if you have a difficulty, an issue, then that's something else you could bring to our attention tonight, and Chris will be able to point you in the right direction where that is concerned. There seems to be more and more involvement with Trustees in estates, and disbursements and so on, so if the Public Trustee or the Public Guardian is part of your world and things are not going so well. Another one that came to mind recently, it came across my desk because I was asked to support a family, and at the heart of the issue for them was a dispute, and the dispute then would go before one of the state tribunals, and the tribunal, in the process as they had to do, appointed an officer to go out and inspect some work and see whether it had been done to standard. The couple had real reservations about the independence of this, or how this particular officer discharged his responsibilities to the tribunal, got another qualified person who had done similar work on other occasions to give an independent and different report. Let's say they take that to the tribunal and they are unhappy with how the tribunal in the end decides, they really think that there's not been objectivity. Can they bring that to the State Ombudsman?

Chris Field: Yes, tribunals are in our jurisdiction. There is one tribunal that is not in our jurisdiction, and that is the State Administrative Tribunal. That's obviously the tribunal that many people would be familiar with, amalgamation of a range of tribunals and now a stand-alone tribunal. So courts - the Supreme Court, District Court, Magistrates Court, Licencing. Those courts, Coroner's Court, are not in my jurisdiction. Indeed any court. But of tribunals, all are in my jurisdiction except for the State Administrative Tribunal.

Graham Mabury: So if you've been before a tribunal folks and are not happy with the process, remember it was not the outcome here, but if you feel, that's just the one example I could think of that makes it very clear, that this particular couple it was over a standard of workmanship, so they went to the relevant tribunal. But I don't know the outcome to be honest, but they were just concerned on the way in that the person who had been delegated the responsibility of coming out and looking at the job had really not been objective or thorough. So they sought this independent person to give another report, and then they were going to be presenting that to the tribunal. And I thought well say that went pear-shaped in terms of process not outcome, would that be, and you can you can hear that it is indeed in the State Ombudsman's barley wick. Ok, we go to your calls next.

[BREAK]

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

Graham Mabury: Alright, I've had a grizzle to the Ombudsman so I feel better, now it's your chance to bring your concerns. Unfortunately for me, my grizzle is about a commonwealth bureaucracy. John, welcome.

John: Hi Graham, how are you going?

Graham Mabury: Doing well, and the State Ombudsman is listening.

John: Nice to have you back Graham, thanks for the opportunity Chris.

Chris Field: Good on you John.

- John:** Mine's to do with a freedom of information request with the Police Department. I've sought some, I gave some parameters as to what records I would like, and sent my cheque in, and received a letter advising that it would be \$2000 with a big massive list that shocked me intently. It's all to do with a situation, there's no charges or anything like that, but I sought the information. And I wrote back to them and contacted them and wrote back to them asking them, can they please line by line tell me why these 67 hours, how they are made up because I could then reduce the scope of what I need so I could reduce the cost. And they didn't do that, so then I wrote to them, and I wrote to them with a reduced, just from without any hours, maybe, don't want that, don't want that, was does that do, and then I said within that, can you also please show with what's remaining, how you break down the hours. I've got the letter back now saying it's been reduced to \$1400, but still no breakdown. So there's 40 lines, surely to arrive at the number of hours they must be able to line by line, give me the information so that I can decide, I want to make these smaller costs, its exorbitant anyway, but I need that information of the breakdown. I just don't seem to be able to get that through to them.
- Chris Field:** Look, thanks for your call John, certainly issues around freedom of information are ones that come across in the community from time to time. Can I say that you've done the sort of thing that we would always say to anyone who's been dealing with an agency, regardless of who that agency is, that government agency, and that is try to resolve the matter with them first, and you've obviously been making those efforts, and at this stage from your perspective not resolved to your satisfaction. In this State, concerns or escalating those concerns, that is making a complaint about your freedom of information request is not dealt with by the State Ombudsman. It is in some states, but not in WA. In this State we have a very good office, and it's called the Office of the Information Commissioner, a very good group of people there and a very good Information Commissioner, and they have a phone number – 6551 7888, 6551 7888. You can contact them and raise those concerns with them. They are the experts in this area, and will be able to give you information and ideas about how this matter should be progressed.
- Graham Mabury:** John don't hang up, I'll just make sure, I'll pop you through to Royston to make sure you got that number for the Information Commissioner. We move on to Anne.
- Anne:** Evening Graham. Welcome back, I hope you enjoyed everything.
- Graham Mabury:** Thank you, look it was a good week.
- Anne:** I was thinking of you a lot having the sun over east.
- Graham Mabury:** I tell you what Anne, I'm just waiting on a very slow moving government department to actually give my son a date that he can actually leave. It's a long long sad story Anne, but I suppose the good news is he's still here. Now your question for the Ombudsman?
- Anne:** Yes and he's well, that's the main thing, they all are. Regarding the Ombudsman, does he deal with the postal people?
- Graham:** Well ask the question Anne, and I'm sure if it's not Chris's area, he'll tell you where to go.
- Anne:** Yes, alright.
- Graham Mabury:** And what's the question Anne?

- Anne:** Well I'm having trouble with my mail Graham. I live on Manning Road and we've got seven suburbs on Manning Road. We've got numbers up the other end in Bentley, these things shouldn't get mixed up, because you've got the code, you know you've got your code on the letters and thing. I've had parcels opened. I was told it was lucky I got them, that they weren't destroyed. Because I asked where all the, it came from my son from England when I was over for my birthday. And I eventually got them but I said where's the wrapping, these have come from England, where's all the wrapping? He said, oh its in the bin. He said you're lucky these didn't go in the bin. And I got them, but I had to pay \$30 to get a taxi to get them, but I should have rung the post office first. But anyway, I'm still having some trouble. I've reported it, and I've got a number I ring, but still getting this. Another lot of photos have been missing now for the last few weeks, and I'm concerned now. I'm ringing them tomorrow. My son's sending an album, they were over for Christmas and did an album up for the photos they took. I was surprised as I didn't know it was coming. He told me on Saturday 'look out for it Mum. It should be there soon.' So I'll get on to them tomorrow to make certain that it doesn't go astray.
- Graham Mabury:** Well I'm going to pop you on hold so you can hear what Chris has to say but I think our next caller has an amazingly similar situation and then Chris can respond to both. Tim?
- Tim:** How are you?
- Graham:** Yeah, go ahead Tim. We're fine and Chris is listening because I think both will have similar information.
- Tim:** Look, for the last probably two years, my business parcels have been coming through Australia Post to my home. They either leave it expensive freight just at my front door step when I'm not home and it requires signatures. The items either don't turn up. They have the tenacity to, I think that would be the word I would use, to leave a card in my letterbox saying where they had left a \$10,000 camera lense for my business and in the process someone obviously saw them putting the card in the letterbox, so someone has gone and read it, and stolen the camera lense. More recently, I have been buying things from the eBay websites and these things never turn up. The tracking items, they always say that they've been delivered by the Postie. A pair of jeans that I bought three weeks ago, apparently, they never turned up, even though the driver got a signature and when I asked to see the signature, it wasn't my signature, it was just a cross. I have gone and lodged a complaint with Australia Post and said "enough is enough, I need to get my items or you need to pay me compensation." I've then gone and rung the Mail Ombudsman and the Mail Ombudsman has done a small investigation but really haven't followed any things through and all these people say "oh we'll call you back, we'll call you back." You never ever hear from them.
- Graham Mabury:** Tim, thank you. Chris?
- Chris Field:** Thanks Graham, and thanks both Anne and Tim for your calls. Look I think it's possibly fortunate, and I hope what's not in Graham's future is what is possibly in Anne and Tim's future, is contact with the Commonwealth Ombudsman's office, although it sounds like Tim you've already gone some of the way down that pathway. Just so, and it's always useful Graham, to just remind listeners just as you always do, that the State Ombudsman in each of the states – Victoria, New South Wales, Western Australia etc., who deal with State government agencies, local governments and universities, and of course we have the Commonwealth Ombudsman to deal with Commonwealth departments. The Commonwealth Ombudsman deals with Commonwealth State government departments but in an arrangement that's not dissimilar to mine, where I'm both the State Ombudsman but also the Energy Ombudsman, and that is, the Energy Ombudsman is an Industry Ombudsman, the Australia Post does have an Industry Ombudsman. That's what Tim is referring to as the Mail Ombudsman. So there is a Postal Ombudsman and that function is undertaken by the Commonwealth Ombudsman's office.

Chris Field (continued): So they are the right people to call. So Tim I think you've done the right thing with the way you've pursued it through, with Australia Post first and then to the Mail Ombudsman and you'd be well placed to call the Mail Ombudsman, the Postal Ombudsman and see if they can resolve it. If you're still not satisfied, certainly with my agency and, I'm sure this is the case with the Postal Ombudsman, you can always give another call back and say "look I'd like some further explanation, is there something more that I can get as an explanation and really understand why this matter hasn't been resolved" at this stage to your satisfaction – that's not to say that everything can be resolved to your satisfaction but it's always good to try and get as much information as possible.

Graham Mabury: Tim, sorry you're having frustrations, especially with a \$10,000 item going missing and I would think that, those sort of compensation cases, that – does the Ombudsman..I mean obviously the Ombudsman doesn't decide – or do you decide about things like that about compensation?

Chris Field: Yes absolutely. So to give an example, of the Energy Ombudsman scheme in Western Australia, if this was an energy consumer case, we can make a determination, so this is not a recommendation but a binding determination, on one of the companies, say Synergy, say Western Power, for an amount of up to \$20,000 and then up to \$50,000 by agreement. So that's when the member agrees with us to go up to that amount. Very rare that we ever have to do that, and in fact I have never made a binding determination in six years and that's because the companies have very sensibly engaged with the consumers with our facilitation and our work and get a mutually satisfactory solution but the reality is that all industry Ombudsmen schemes like the Postal Ombudsman are able to make determinations if they need be.

Graham Mabury: Okay. So Tim the big one for you I think is go back and say "look, I do want, I do in the end want some sort of determination or some sort of effective negotiation with Australia Post about the money, among other things." Anne, I'll just get you to hang on, I'm sure Royston will be able to find that Mail Ombudsman's phone number for you.

We have in the studio with us, the State Ombudsman. If you have a dispute and if it's wending it's way through or you feel like it's going off the rails, it might be a dispute with local government authority, it might be a dispute with the Education department, you could be in dispute with the police and you're not happy with how the police have handled an issue, you've gone through the process with them and, and here we're not talking about you not being happy with the outcome, but you're not happy that the process has been followed properly and fairly and thoroughly. It could be, and I mentioned this earlier, just to double check with Chris that you may be, for example, involved with a Public Trustee, that you may have issues in the area of mental health, that you have concerns about because we now have the Commissioner for Mental Health and we have a Mental Health Minister and we have a department and therefore we have a responsibility to report back to the Ombudsman. So if you have issues, there or you think "oh I am in dispute about this and I'm not getting anywhere", you do need to pick up the phone right now though folks. The number is 9221 1882. 9221 1882, and you will need to ring, now let me stress this, you need to ring right now because the time is very short and there's plenty of things I can ask Chris about, if everyone is happy and there's no disputes anywhere, we can't extend beyond the news, and I'll move heaven and earth to fit you in before the news if you have an issue. We invite you to join the conversation and to take advantage – I can't think of any other situation in which you could speak directly to the Ombudsman so the number is 9221 1882.

[BREAK]

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

Graham Mabury: Yes indeed it is. In terms of the Public Trustee, is there much action that comes from there? And I ask this not because of any concern about the Public Trustee and I stress this again, but because we do get so many calls on Nightline now about wills and estates and disputes.

Chris Field: No we do get complaints. Look it certainly would be an agency that we receive very few complaints about but the reality is that we do and I think that's the important thing that people can have the confidence that ultimately if their complaint isn't resolved with any agency, and that may be the Public Trustee, that they do have us, as you always refer to us quite frequently as that independent umpire and they can come and talk to us about it.

Graham Mabury: Good stuff. Alright, we'll move on because I said, callers I will get you on air if I possibly can, and we can. Robyn?

Robyn: Hello.

Graham Mabury: Welcome and Chris Field, the State Ombudsman is listening.

Robyn: I'm not sure if I've got the right place, but I'm trying to get my Synergy bill not estimated. So, I don't know, I just don't know where to go with this. I don't think – I'm going to still have to pay my bill because I put a solar hot water system in and they keep, I call it guesstimating my electricity bill and it's, like, double the amount that I paid a month ago.

Chris Field: Robyn have you spoken to Synergy about this matter?

Robyn: Yes I have, twice.

Chris Field: And obviously at this stage you're not, in your own mind, satisfied about where things are at. Look, it's important for you and for all the listeners to know that one of my roles in the state is as the Energy Ombudsman and Synergy as our principal electricity retailer in the state is in that jurisdiction, in my jurisdiction as Energy Ombudsman. Look, we'd be delighted to speak to you and one of my terrific team, the energy team, can call you back over the next 48 hours and have a talk to you, see if there's some matters we can discuss with you and then give you some guidance and assistance with that. Estimated bills is the sort of thing that people can and do come to my office about, wanting to understand that and with concerns about that. So it's certainly territory that we understand, and as I say, we'd be delighted if you would be happy to leave your number off air with Royston. I undertake to have one of my staff either call you tomorrow or the day after at the very latest.

Graham Mabury: Robyn, that's very wise that you picked up the phone and you definitely came to the right place, no doubt about that. Michelle, good evening to you.

Michelle: Hi, how are you?

Graham Mabury: We're both good, thank you. What's your problem?

Michelle: I'm just wondering you....as an employee of the State government...

Chris Field: Whether I am, Michelle?

Michelle: No, no, no – I am.

Chris Field: Oh you are! Sorry.

Graham Mabury: You're bringing a concern as a State government employee?

Michelle: Yes and if somebody in authority in that department and you follow the grievance process, but you find that, um, that they're just at the top.

Chris Field: I completely understand your enquiry Michelle. Look, the reality is with grievance processes, and that may not be immediately familiar to every one of your listeners, Graham. But there are processes within government departments to pursue a grievance or concern you have about the way matters were operating and generally speaking they'll have escalation processes internally and are managed internally. Absolutely appropriate Michelle to pursue those processes within whichever agency it is, for an employee and then after that, there are always potentially external bodies that can look at that and one of those is my office but there are others as well. So generally speaking with those, we will look at the complaint and decide whether we're the best office, the most appropriate office to deal with it, or if there may be another office who is more appropriate to deal with the issue and if that's the case, then we will refer complainants to that office. Because that's the most appropriate, the most efficient place for them to take their complaint to be resolved. But as I say, always these matters can always be sensitive and I don't want you to, you're obviously not giving those details on air. I think it would be best if you wanted some further advice from us about that, we'd be delighted to speak to you, if you wanted to leave your number with Royston, one of my staff from the State Ombudsman's office who will understand this issue very strongly when they speak to you about it, it's a matter that does come to our office, that people are concerned, that people will complain about and we're very happy to talk to you and to point you in the right direction and that might be our office, or possibly another agency or to pursue further matters within either your own or the employee's agency if you're talking about someone else. So either way, we can assist you.

Graham Mabury: Michelle, thanks for your call. Do hang on, Royston will get your permission for someone from Chris' office to give you a call. Because that's something that, I guess, I know there are quite a large number of State government employees listening in right now who would be thinking 'okay, if I am in dispute at work with some of my up-line management, and I've gone through the dispute resolution process or conflict process, in my work place, I don't think it's just and it's not being followed appropriately, and I'm not being heard', they can actually come to the Ombudsman and if you're not the best person, then you can tell them who is.

Chris Field: Yes so there are other State government agencies that will look at these matters potentially, of course there's the actual agency themselves, the Public Sector Commission, WorkCover and others. So there may be other agencies that are more appropriate to look at the complaint that we might refer them to or simply have a dialogue with another other agency to determine who is the best agency to look at the matter. I like to think of our office as, certainly if we're not the most appropriate agency, we will work immediately and incredibly helpfully to make sure that you are going to the right place. The last thing we want is people just moving around a system, no one wants that.

Graham Mabury: Being passed from place to place. You don't want the 'not my department'.

Chris Field: Yes, and sometimes of course, people are coming to my agency because they've been told that and we have to be very sensitive about that. So our motto is to make sure that if we don't resolve it immediately, we are sending them to somewhere where it can be resolved.

Graham Mabury: I guess the best way to come to your department is either on the phone or online?

Chris Field: Yes that's exactly right.

Graham Mabury: So online folks it's www.ombudsman.wa.gov.au. So the standard government suffix at the back end with the www upfront, www.ombudsman.wa.gov.au. The phone number is 9220 7555. 9220 7555. Always fun Chris, thanks again.

Chris Field: My absolute pleasure to be here, it was great.

Graham Mabury: And we've learned a lot tonight. Thanks a lot. So at least inside the studio, there's been a considerable amount of learning going on.

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