

Integrity Co-ordinating Group 2011 Forum

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Introduction

It is a considerable pleasure to join you for this discussion about integrity in decision making and to do so with my ICG colleagues.

In this part of the Forum, I will be focussing on the office of the Ombudsman with particular reference to our work in promoting integrity in decision making.

To do so, I will first discuss the role of the Ombudsman, followed by how we work with public authorities to improve the quality of decision making, including an outline of recurring themes that arise from our work, I will then turn to the principles that guide our work, before making some concluding observations.

Before I commence I think it is important to note that the Ombudsman is only one part of a broader integrity framework. The ICG members represented here today undertake a substantial amount of critical work on the integrity of decision making. More generally, integrity in decision making is properly a collaborative, shared endeavour. Indeed a very large amount of the work that needs to be done, and is done, on integrity of decision making is undertaken by those in the audience, namely, public sector agencies, local governments and universities themselves.

The role of the Ombudsman

I will start today by discussing the role of the Ombudsman. We exist principally to do three things:

- First, to investigate and resolve complaints about public administration;
- Second, to undertake investigations not arising from individual complaints, but into serious, systemic or emerging issues in public administration. We refer to these as own motion investigations; and
- Third, to undertake a range of additional functions that fit within the broad category of integrity oversight.

To ensure we are able to carry out these functions effectively, we also undertake outreach, education, liaison and other activities to ensure awareness of, and accessibility to, the Ombudsman. The particular focus of these awareness and accessibility activities has been on regional and indigenous Western Australians and other population groups we identify that may be at a disadvantage in terms of accessing our services.

I now want to turn to the first of these things, namely, the role of the Ombudsman in investigating and resolving complaints.

First and foremost, the role of the Ombudsman is to receive, investigate and resolve complaints about the administration of government, or more accurately, alleged maladministration. The Ombudsman is able to consider complaints regarding almost all administrative activities of the public sector, local government and universities.

Prior to the Ombudsman considering a complaint we generally require a complainant to have first allowed the public authority an opportunity to resolve the complaint. Indeed, this is the case for virtually all Ombudsman schemes. There are a range of reasons for this, including, that it achieves resolution of cases at least cost, helps to preserve relationships which are often of an ongoing nature and encourages public authorities to take responsibility for complaints management. Last year my office dealt with more than 2000 complaints from more than 8000 contacts with the Western Australian public.

Our office places a very strong emphasis on early resolution of complaints where it is appropriate to do so and a high value on timely resolution of complaints generally. Timely resolution of complaints reduces costs to the Ombudsman and public authorities, and therefore to taxpayers, as well as ensuring a much higher level of satisfaction for complainants and public authorities in dealing with complaints.

Over the last five years, the average age of complaints on hand in the office of the Ombudsman has dropped from 225 days to 68 days and complaints older than 6 months have been reduced by 80 per cent. These timeliness improvements have only been able to be achieved due to the very strong cooperation of public authorities, including those in the audience today.

Besides resolving disputes, our second role is to identify the issues that lead to these disputes. Complaints made to our office become, over time, a rich evidence base for potential improvement in the delivery of government services.

My office has, over the last year, completed two own motion investigations that were strongly informed by the complaints that we had received, namely how state government and local government are handling complaints and a second project examining how government agencies are managing personal information. We are presently undertaking two new own-motion investigations both arising from our jurisdiction to review certain deaths of children in Western Australia.

Third, parliament has expanded the scale and scope of our activities to undertake a range of new functions that sit within the broad concept of integrity oversight. In addition to the two "classical" Ombudsman functions I have just set out, we undertake inspections of telecommunications intercepts, investigation of public interest disclosures, investigation of complaints from overseas students, the role of the Energy Ombudsman and, most recently, reviews of certain child deaths.

How we work with you as public authorities to improve the quality of decision making

I now want to turn to how the office of the Ombudsman can, and does, work collaboratively with public authorities. Arising from our complaint-handling work, we are

able to identify key systemic issues and themes that are relevant to improving decision-making.

These themes include the time taken to make decisions, keeping people informed during the decision-making process, the discretion accorded to, and flexibility of, decision-making processes, the unintended consequences of decisions, procedural fairness (including ensuring that there is no perceived bias or inappropriate conflict of interests in decisions), whether remedies should flow from accepted errors and inter-agency cooperation where decisions require multi-agency input.

Based on the themes about decision-making arising from complaints, we provide assistance to improve decision making and practices through a range of activities including undertaking regular communication and meetings with key stakeholders, as well as providing training, guidelines and workshops. Our own motion investigations also provide ideas and tools that may assist public authorities in specific areas of decision making. For example:

- Our 2010 report on the survey of complaint handling systems in State Government agencies and local governments showed that public authorities are generally doing a good job of handling complaints. The survey also identified a number of opportunities for improvement to the handling of complaints that was sent to public authorities in the form of a report, but has also been incorporated into our suite of complaint handling guidelines, training activities and workshops.
- Our 2011 report on the management of personal information arose from a common source of complaint to the Ombudsman's office, namely how personal information is managed by the public sector. We investigated a selected number of government agencies in depth and made recommendations to these agencies regarding how they might improve the management of personal information. In doing so, the investigation identified a series of good practices, as well as a number of opportunities for improvement, in the management of personal information that were of more general application. These good practices and opportunities for improvements, combined with a series of identified good practice principles, formed the basis for the creation of a checklist for managing and making decisions on the use of personal information. This checklist was sent to all major government agencies that deal with personal information to assist corporate executives and senior management consider their own management of personal information.

The principles that underpin our work

Before making my concluding comments, I want to mention briefly the principles that underpin our work. The Ombudsman is an officer of the Parliament, independent of the government of the day and our office is completely impartial in our approach. Indeed, it is in part because the office of the Ombudsman enjoys a very high level of independence and also a very significant number of coercive powers, including the powers of a standing royal commission, that we must have a strong set of internally-driven principles to ensure that we are exercising our independent powers responsibly.

In all of the work we do, we follow a transparent, 'no-surprises' approach which emphasises strong consultation and procedural fairness. At the end of our

investigations we can, and do, make recommendations for improvements to public administration. When we make recommendations to public authorities to address the findings arising from our investigations we are guided by four principles:

- First, that there is a need for the recommendation that is demonstrated by a clear, defensible evidence-base;
- Second, that the proposed recommendation is proportionate to the problem identified;
- Third, that the costs imposed by the recommendation are outweighed by its benefits; and
- Fourth, that there will be no undesirable, unintended consequences of our recommendations.

More generally, we recognise the value in public administrators undertaking innovative behaviour and we work to ensure that our otherwise legitimate accountability mechanisms do not create undesirable inertia in government administration or excessive risk aversion.

Conclusion

In conclusion, decision making hallmarked by integrity retains the confidence of citizens and contributes significantly to stable and successful societies. Conversely, public administration hallmarked by a lack of integrity, a lack of an ethical underpinning, corruption, conflicts of interest, secrecy, undue favours and unaccountable to its citizens, risks losing their confidence.

Within our integrity framework the Ombudsman provides an independent and impartial avenue for the resolution of complaints about decisions made by public administrators and takes what we learn from these complaints and our investigations to work with public authorities to improve their decision-making. Whilst we are first and foremost complaint resolvers, increasingly, we are asked to undertake inspectorate, investigatory or review functions of specific aspects of government administration to provide confidence about the integrity of that administration.

I am aware that discussions of integrity in public administration inevitably must have a level of focus on what goes wrong in decision making and the lessons that we can learn from these mistakes. This is proper and, indeed, essential and something about which we should never be complacent. But in accepting the undoubted importance of discovering, reporting on, discussing, and remedying what goes wrong, we should never forget that there is very much more that is done correctly.

It has certainly been my experience in the last four years as Ombudsman that Western Australia's public sector is overwhelmingly comprised of dedicated professionals committed to the public interest through high quality, accountable and transparent decision-making. The clear collective commitment to the integrity of public administration between the offices that comprise the ICG, and to all of you who deliver on a day to day basis the critical functions of government, is the one that best serves our ultimate purpose – the advancement of the public interest.