

Message from the Ombudsman

‘At the end of the reporting year I reflect on the enquiries and investigations conducted by my officers and consider the progress made in regard to the implementation of my recommendations. The remedies implemented by public sector agencies as a result of complaint enquiries provide the opportunity to improve the administration of the Victorian public sector.

Handling individual complaints is only one part of my responsibility. They, however, provide me with the opportunity to drive systemic change and influence the culture that underpins the administration of the public sector. This edition provides information on the diverse activities of my office. I also provide a case study as a reminder to everyone about the personal and sensitive information held by your organisations and the care which must be taken in handling this information.

Finally, I would like to introduce you to Ms Elizabeth Moore who has returned to Ombudsman Victoria after 18 months. She joins the Transport Accident and WorkCover Unit as a Senior Investigations Officer. Elizabeth has Arts and Law degrees and will assist in the enquiries and investigations of TAC and WorkSafe related complaints.’

G E Brouwer
OMBUDSMAN

Beyond one complaint

Section 13 (1) of the *Ombudsman Act 1973* states:

The principal function of the Ombudsman shall be to enquire into or investigate any administrative action taken in any Government Department or Public Statutory Body to which this Act applies or by any member of staff of a municipal council.

The Ombudsman’s jurisdiction includes private agencies performing a function on behalf of Government. In carrying out this function, the Ombudsman promotes excellence in public administration and seeks to ensure the highest possible standards of public sector service delivery to all Victorians.



The Ombudsman provides a means by which individuals can obtain redress for maladministration. In providing this service he focuses on obtaining achievable practical outcomes in a timely manner for individual complaints.

The Ombudsman has recently said:

I am able to draw on the knowledge gained from dealing with individual complaints to identify systemic weaknesses that underpin poor administrative practices. Formal reviews and investigations conducted by my office can then inform authorities and their responsible Ministers about underlying causes of these problems and indicate the steps that should be taken to improve an authority's performance.

The Ombudsman's *Complaint handling guide for the Victorian public sector* clarifies the importance of linking complaint handling and business improvement. The guide states:

Sufficient resources need to be allocated to allow an analysis of aggregated complaint data and identification of recurring or system wide problems. The findings should then be used to address the action or service of the agency that has been the source of the complaints. This may be through corrective and preventative actions and innovative improvements. The agency should take actions to eliminate the cause of existing and potential problems leading to complaints in order to prevent further complaints.

Complaint numbers alone are not effective indicators of proper administration as access to and promotion of complaint handling processes and compliance with complaint handling practices may mislead the interpretation of complaint data. Only providing a response to an individual complaint, misses the strategic opportunity to understand and learn. Remediating the one complaint may fail to question a policy, a practice, compliance or the culture in which the decisions or actions were taken. Consequently, it misses the opportunity for a broader and deeper change.

To ensure the public receives the standard of service that should be expected from government, providing remedies for individual complaints is only the first step. Considering each complaint in the light of strengthening systems is the next step.

The Ombudsman said:

Ultimately, I strive for my office to contribute to the development of a culture of public service that reflects the values of democracy – openness, transparency, probity and the pursuit of the public interest at all times. The importance is to effect cultural change in government administration.

An opportunity to reflect

On 20 April 2008 *The Sunday Age* published an article regarding an alleged release of medical files to the wrong person by an authorised agent of WorkSafe. Entities in the TAC and WorkSafe industries hold private and sensitive information and absolute care needs to be taken to ensure that its collection, storage, use and disclosure are consistent with the *Health Records Act 2001*, the *Information Privacy Act 2000* and with their policies governing these actions.

Sophisticated measures can be put in place to minimise the risk in the future but taking care and conducting simple checks can be most effective. For example, if you are signing a letter and enclosing information, you are responsible for checking the documents included and sealing the envelope.

There have been many examples in other jurisdictions of sensitive documents being left in public places. Documents and files should only leave the security of the workplace if there is no other choice. Be aware of the examples in the media, even if they are not related to your organisation or industry. Take them as an opportunity to reflect on the practices and controls in your workplace and proactively address any shortfalls.

Half yearly visits to agencies

Investigation officers conduct informal visits to the entities which make up the TAC and WorkSafe industries. The officers are interested in the opportunity to meet new staff and share information about changes in our organisations. The discussions are about complaint handling in general and common complaint themes. Some of the more difficult complaint enquiries are discussed such as those where there have been delayed or incomplete responses, comprehensive matters or where challenges presented.

Feedback has included expressions of appreciation as these visits have provided an opportunity to clarify the role of the Ombudsman in the broader context of Government. This understanding assists the complaint handling officers to meet the Ombudsman's expectations during enquiries and investigations particularly in regard to complaint handling, systemic and cultural change.



If there are people in your organisations whom you believe will benefit from these informal visits or more formal presentations please contact the Director of Investigations Jo Carden on (03) 9613 6222.

Request for access to information

This office receives complaints about access to information under the *Accident Compensation Act 1985* (ACA) or the *Freedom of Information Act 1982* (FoI). One common complaint is when a WorkCover agent reports to an applicant that the document they requested 'does not exist' or the 'file cannot be located'. The Ombudsman can make enquiries of the agent about the search process for the information requested to ensure that a thorough and diligent search has been conducted. The following is a case study to demonstrate how a simple request for a file resulted in a complaint to the Ombudsman.

Found on the second search

A solicitor representing an injured worker made a request to a WorkCover Agent for 'all documents' to be released. The Agent advised in writing that it was unable to locate the file or the documents. In the Agent's response it identified the steps it took to locate the file. This was a limited in-house search. No file or documents were found and no information was released.

The solicitor made a complaint to the Ombudsman. This office made enquiries of the Agent about how it conducted its search. The Agent then conducted a more extensive search and located the file. The complete file was released and the request for the information was fulfilled.

The enquiries concluded that the original search process for the file was limited to an immediate area and did not include other locations such as other office locations, off site storage and files in transit.

The Agent agreed to review its database to include the location of files or documents that are in transit.

There are ways this Agent may have avoided a complaint to the Ombudsman. The following checklist was provided in the OV Bulletin Edition 1 in 2005, however it is worth repeating as it is well over two years since Edition 1 was distributed and the Ombudsman continues to receive complaints of this type. There are also additional prompt questions.

The checklist may assist you when an access to information request is received and the initial search does not identify the requested file or document. Prior to writing the decision letter, please consider the following. They are questions this office may ask if the Ombudsman receives a complaint.

CHECKLIST

Electronic documents and files

Consider the databases searched and by what method.

Consider the network drives and folders searched and by what method.

What methods and systems were used to search?

What other databases could hold information relevant to the FOI request?

Hard copy documents and files

Consider the searches undertaken to locate physical documents relevant to the request including: what archive/storage files were searched, other files and by what method?

What system tracks file movement and does it cover all locations and transit files?

Who and how

Review the relevant areas and officers to undertake searches.

Consider a call for files through email or memos as well as a physical search.

Track the last claims activities and physically check the file location

Emails

Look at how backups are conducted of your computer network and how often.

Consider the software used to conduct the backup, the methods available to search the backup, and who conducts the backup.

Lost documents

To assist an applicant, consider reconstruction of lost records using other system data.

Has a remedy been provided to meet the applicant's needs?

Complaint handling workshops

On 29 May 2008, Ombudsman Victoria held a group workshop on complaint handling. Participants were from a variety of agencies that provide public services, including some people from the TAC and WorkSafe industries. This was the second complaint handling workshop for 2008 and feedback focussed on the valuable insight into different challenges the participants face across the Victorian public sector. Appreciation was expressed for the active and frank contributions from the participants which provided an opportunity to reflect and learn.

Further Ombudsman Victoria workshops are planned for 2008-09 and these are promoted on the website. All workshops are offered free of charge to agencies that fall within the Ombudsman's jurisdiction.

WORKSHOP

Topic: **Whistleblower complaints**

When: Tuesday 5 August 2008

Location: Ombudsman Victoria, 459 Collins Street, Melbourne

This workshop will assist the Protected Disclosure Coordinators to understand the Whistleblower Act and their responsibilities.

Registration

To book send an email to 'attention education' at ombudvic@ombudsman.vic.gov.au or call on (03) 9613 6222.

Recent Parliamentary reports

Investigation into contraband entering a prison and related issues June 2008

Conflict of interest in the public sector March 2008

Conflict of interest in local government March 2008

Investigation into VicRoads driver licensing arrangements December 2007

Future editions and contact details

We welcome enquiries about this publication. The purpose is to provide you with information that can assist you in your roles and your relationship with Ombudsman Victoria. Comments and recommendations for future editions can be forwarded to ombudvic@ombudsman.vic.gov.au attention to 'TAC&WC Unit'.

Complaints can be directed to:

Mail Level 9, 459 Collins Street, Melbourne

Phone 9613 6222 or 1800 806 314

Email ombudvic@ombudsman.vic.gov.au