

## Message from the Ombudsman

In Edition 8, I introduced you to the Charter of Human Rights and the need for your organisations to be prepared for new responsibilities. I also listed the four areas of concern for public administration in my 2006-07 annual report. In Edition 9, I expand on these and bring to your attention changes in my *Complaint Handling Guide for the Victorian Public Sector* and my investigations involving the public sector as the lessons learnt may be relevant to you.

At the end of another calendar year I reflect on my investigations and the actions agencies and departments have taken in response to my enquiries, all of which improve the administration of the Victoria Public Sector. I look forward to your building on these complaint outcomes in 2008.

G E Brouwer  
OMBUDSMAN

## Complaint handling guide for the Victorian Public Sector

Edition 8 of this bulletin included information about the *Charter of Human Rights and Responsibilities Act 2006* (the Charter) and the need for your organisations to be prepared by 1 January 2008. Ombudsman Victoria has also spent some time reviewing its own complaint handling, investigation and general business administration policies and practices. Included in this project was a review of the *Complaint Handling Guide for the Victorian Public Sector*.

In 2006 this office published the first edition of the guide to assist the public sector develop their own complaint handling procedures. The guide has recently been reviewed and updated to reflect the Charter and changes to the Australian Standards. If you would like to obtain an updated copy of the guide go to our website at [www.ombudsman.vic.gov.au](http://www.ombudsman.vic.gov.au) and select *Complaint handling guide for the Victorian Public Sector*.



## Annual Report—the Ombudsman’s areas of concern

In the Ombudsman’s 2006-07 annual report a specific area of concern was conflict of interest, which can be found on the [website](#).

Conflicts of interest, failure to meet statutory requirements, poor customer service and inadequate coordination between government agencies were persistent issues raised in complaints to my office over the past year.

Addressing these systemic issues is, in my view, critical to good governance and public service efficiency in this State, and I urge government departments and agencies to respond to this challenge.

In particular, I note the increasing frequency of complaints involving conflicts of interest. It is important for senior public officials to become more involved in the management of this complex area.

I am concerned about the misconception that having policies, procedures and protocols in place suffices in dealing with conflicts of interest. Public officials cannot simply rely on procedures to work by themselves. They need to actively manage conflicts of interest and lead by example.

In my report I have also highlighted the failure of departments and agencies to meet their statutory requirements, particularly in the areas of child protection, road safety, whistle-blowers and Freedom of Information.

Poor customer service, particularly in relation to the handling of complaints, was also seen as a major contributor to complainant frustration over the last 12 months.

I have received many complaints this year which should have been easily resolved by the agency concerned, without any need for intervention by my office.

However, due to poor customer service or, when several agencies were involved, poor coordination or cooperation, small matters were allowed to turn into much larger problems. There needs to be a greater willingness by departments and agencies to address problems quickly, to apologise if necessary, and to learn from their experiences.

**Ombudsman Victoria Spring 2007 Newsletter**

## Public reports

Not all Ombudsman investigation reports are made public. Those that are, the Ombudsman determines are in the public interest such as:

[\*Investigation into VicRoads driver licensing arrangements \(December 2007\)\*](#)

[\*Investigation into the disclosure of electronic communications addressed to the Member for Evelyn and related matters \(November 2007\)\*](#)

[\*Investigation into the Office of Housing's tender process for the cleaning and gardening maintenance contract - CNG2007 \(October 2007\)\*](#)

Information sources from outside your industries, such as the Ombudsman's reports can provide relevant and useful information. Lessons from the reports listed above include:

- ◇ The VicRoads report highlights the responsibilities organisations have when they hold personal information and the potential risks related to privacy and identity security.
- ◇ The Member for Evelyn report identifies the role information technology systems and service provision plays in supporting authorised access, privacy and confidentiality practices.
- ◇ The Office of Housing report addresses the probity requirements around the procurement of services, documentation and conflict of interest.

Two conflict of interest reports will be tabled in Parliament early in 2008. One report is specific to municipal councils and the other directed at the broader public sector. The latter is likely to have direct relevance to your work when you deliver services on behalf of the Victorian Government.

### **Ombudsman regional visits**

The Ombudsman and the Deputy Ombudsman conducted a series of meetings in regional Victoria in 2006-07. MPs, mayors and Councillors from the regions were invited to discuss ways of ensuring continuous improvement in public administration.

Representatives from various government departments, community groups and regional universities and TAFEs also attended, including those from the TAC and WorkSafe industries. Investigation officers were also available to take complaints and provide information for residents in the region regarding the public sector, service delivery and complaint handling.

These are important public sector education and outreach events as we take complaint handling out of the office. For this reason, these visits will continue in 2007-08 with the addition of visits to the fast-growing areas of outer metropolitan Melbourne.

A community survey published in July 2007 by the Department of Justice on alternative dispute resolution providers in Victoria has found recognition of the Ombudsman by regional Victorians is at 80%.

The Ombudsman's Education Coordinator, Ms Lucinda Puls, also coordinates educational sessions on the role of the Ombudsman to community, public sector and other professional groups. Sessions can be tailored, however the popular topics are *Complaint Handling Guide for the Victorian Public Sector* and responding to unreasonable complaint conduct.

For more information or to arrange an education session, please contact Ms Puls on (03) 9613 6222 or [ombudvic@ombudsman.vic.gov.au](mailto:ombudvic@ombudsman.vic.gov.au).



## Unreasonable complaint conduct

In 2007, the Victorian Ombudsman participated in a joint project with the Australia Parliamentary Ombudsmen. One of the outcomes of this project is the *Unreasonable complaint conduct: interim practice manual*. This resource is available to assist you in your interactions with the small number of complainants who may demonstrate unreasonable conduct. It reminds you that they still may have a valid complaint but provides systemic management strategies to assist you in dealing with the conduct.

### The manual aims to:

- ◆ minimise the adverse impact of unreasonable complainant conduct on resources, processes and performance of complaint handlers
- ◆ minimise staff stress
- ◆ minimise the possible detriment to the complainants whose conduct is unreasonable but who may have a valid issue
- ◆ ensure as much as possible consistency of complaint handling practices.

The Ombudsman says:

It is a serious step for a public sector agency to decide it will no longer reply to correspondence on a particular topic. However, it is not productive, nor is it an equitable use of resources, to continue to engage in correspondence when all avenues for internal review have been exhausted.

The following need to be in place before an agency ceases to respond to a complainant on a particular issue:

- ◆ A complaint management system that complies with my good practice guide.
- ◆ The client must have been provided with the opportunity to exhaust the internal complaints process.
- ◆ A senior officer must have reviewed the handling of the complaint.
- ◆ Written reasons for the agency's position on the matter must have been recorded.
- ◆ The complainant should be advised that they may contact my office to have the matter reviewed.

The *Unreasonable complaint conduct: interim practice manual* is now available on the [website](#) under *Latest News* and is a useful guide for complaint handling as well as general business scenarios.

## Looking forward

- ◆ Two conflict of interest reports will be tabled in Parliament early in 2008. One report is specific to municipal councils and the other directed at the broader public sector.
- ◆ There will be a new fact sheet available on the website after 1 January 2008 regarding the *Charter of Human Rights and Responsibilities Act 2006* and the role of the Ombudsman.
- ◆ The Ombudsman and his representatives will visit Geelong and Casey (a growing area of outer metropolitan Melbourne) in the first half of the calendar year.

## Complaint update

Examples of allegations received in the previous quarter included:

- ◆ failure to provide vocational rehabilitation and retraining
- ◆ WorkCover premium rates are wrong
- ◆ delay in treatment decisions
- ◆ failure to consider all the evidence available in decision making
- ◆ failure to respond to correspondence or the responses are confusing
- ◆ poor conduct of independent medical examiners
- ◆ repeated failure to respond to accounts
- ◆ failure to locate all documents or files.

The complaint themes remain similar to previous quarters however it is reasonable to expect some of these complaints should be resolved by your organisations in the first instance. Returning to previous editions of this bulletin will remind you of the tips and messages this office has provided in the past and help reduce the repeated complaints to this office. For example in Edition 7, the response to FOI applications, including the storage and retrieval of surveillance tapes was provided as a topic and case study. If you have not received a similar complaint, you should still review your own practices.

Edition 6 may be a useful reference for your new complaint handling staff as this covered *Working with the Ombudsman* and provided a checklist to consider before responding to the this office's enquiries. The same edition included the topic *Long tail and complex claims* which could be considered with the new resource described above *Unreasonable complaint conduct: interim practice manual*.

All previous editions of this bulletin can be located on the [website](#).

## CASE STUDY

Accounts for the provision of treatment to a claimant were submitted for payment. The provider reported they were not paid and were not returned. However, the respondent reported they were returned unpaid with a 'with compliments' slip.

The provider was dissatisfied with the response to his enquiries about the 'lost' accounts and the decision made which was based only on the recollection of staff over a 12 month period. He made a complaint to the Ombudsman.

Ombudsman Victoria determined that the accounts received were not recorded on any payment or claims record system. No copy was retained on file and no file note was made about denying and returning the account. The staff member recalled returning the accounts and making a telephone call to the provider 12 months after the provision of the service but these actions were not recorded.

As a result of this office's enquiries, the respondent improved the process for returning invoices where liability is not accepted as there is no entitlement. Along with documenting the accounts received and actions taken, a letter is now sent and a telephone call is made to explain the decisions.

## 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 OV.

Comments and recommendations for future editions can be forwarded to [Joanna.Carden@ombudsman.vic.gov.au](mailto:Joanna.Carden@ombudsman.vic.gov.au)

### 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](mailto:ombudvic@ombudsman.vic.gov.au).