

Oversight of the Office of the Queensland Ombudsman

Report No. 17, 57th Parliament
Legal Affairs and Safety Committee
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Legal Affairs and Safety Committee

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Abbreviations

Annual Report	Queensland Ombudsman, <i>Annual Report 2019-20</i> , August 2020.
committee	Legal Affairs and Safety Committee
CMS	complaints management system
BCP	business continuity plan
DFD	Director of Forensic Disability
FDS	Forensic Disability Service
FTE	full-time equivalent
NDIS	National Disability Insurance Scheme
Office	Office of the Queensland Ombudsman
Queensland Ombudsman	Mr Anthony Reilly
Ombudsman Act	<i>Ombudsman Act 2001</i>
PID(s)	public interest disclosure(s)
PID Act	<i>Public Interest Disclosure Act 2001</i>
POQA	<i>Parliament of Queensland Act 2001</i>
QCL	Queensland Complaints Landscape
Standing Orders	Standing Rules and Orders of the Legislative Assembly (Queensland)
public hearing	The public hearing held with the Office on 14 June 2021
strategic review	A strategic review of the Office of the Queensland Ombudsman completed in January 2018 by Ms Simone Webbe
strategic review report	The strategic review report prepared by Ms Simone Webbe and tabled on 15 February 2018

Chair's foreword

The Legal Affairs and Safety Committee has oversight responsibilities for the Queensland Ombudsman. This report provides information regarding the performance by the Queensland Ombudsman of his functions under the *Ombudsman Act 2001*.

The committee reviewed the Queensland Ombudsman's Annual Report 2019-20, which was tabled on 24 September 2020. The committee also held a public hearing with the Queensland Ombudsman, Mr Anthony Reilly, and his staff on 14 June 2021.

On behalf of the committee, I thank Mr Reilly and his staff who assisted the committee throughout the course of its oversight of the Queensland Ombudsman's Office for the 2019-20 financial year period.

I thank the Parliamentary Service staff for their assistance with this report.

I commend this report to the House.



Peter Russo MP

Chair

Recommendation

Recommendation

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The committee recommends that the House notes the contents of this report.

1 Introduction

1.1 Role of the committee

The Legal Affairs and Safety Committee (committee) is a portfolio committee of the Legislative Assembly which commenced on 26 November 2020 under the *Parliament of Queensland Act 2001* (POQA) and the Standing Rules and Orders of the Legislative Assembly (Standing Orders).¹

The committee's primary areas of responsibility include:

- Justice and Attorney-General
- Women and the Prevention of Domestic and Family Violence
- Police and Corrective Services
- Fire and Emergency Services.

In addition to the Ombudsman, the committee also has oversight responsibilities for the:

- Electoral Commissioner
- Information Commissioner
- Queensland Family and Child Commission.²

1.2 Purpose and functions of the Queensland Ombudsman

The Office of the Queensland Ombudsman (Office) was established in 1974 to investigate the administrative actions of Queensland government agencies, local councils and universities.

The majority of investigations arise from complaints received, but the Ombudsman also conducts own-initiative investigations.³

The *Ombudsman Act 2001* (Ombudsman Act) provides the Ombudsman with the following functions:

- (a) to investigate administrative actions of agencies –
 - (i) on reference from the Legislative Assembly or a statutory committee of the Legislative Assembly; or
 - (ii) on a complaint; or
 - (iii) on the Ombudsman's own initiative
- (b) to consider the administrative practices and procedures of an agency whose actions are being investigated and to make recommendations to the agency –
 - (i) about appropriate ways of addressing the effects of inappropriate administrative actions; or
 - (ii) for the improvement of the practices and procedures
- (c) to consider the administrative practices and procedures of agencies generally and to make recommendations or provide information or other help to the agencies for the improvement of the practices and procedures
- (d) to provide advice, training, information or other help to agencies, about ways of improving the quality of administrative practices and procedures
- (e) the other functions conferred on the Ombudsman under the Ombudsman Act or any other Act.⁴

¹ *Parliament of Queensland Act 2001*, section 88 and Standing Rules and Orders of the Legislative Assembly (Standing Orders), Standing Order 194.

² Standing Orders, schedule 6.

³ Queensland Ombudsman, *Annual Report 2019-20* (Annual Report), pp 10, 31.

⁴ *Ombudsman Act 2001* (Ombudsman Act), s 12.

The Ombudsman Act also provides that, subject to any other Act or law, the Ombudsman is not subject to direction by any person about the way the Ombudsman performs his functions under the Ombudsman Act, or the priority given to investigations.⁵

The Ombudsman may investigate administrative actions of agencies despite a provision in any Act to the effect that the action is final or cannot be appealed against, challenged, reviewed, quashed or called in to question.⁶

The Ombudsman must not question the merits of a decision, including a policy decision, made by a Minister or Cabinet, or a decision that the Ombudsman is satisfied has been taken for implementing a decision made by Cabinet.⁷

Further, the Ombudsman must not investigate administrative action taken by any of the following:

- a tribunal, or a member of a tribunal, in the performance of the tribunal's deliberative functions
- a person acting as legal adviser to the state or as counsel for the state in any legal proceedings
- a member of the police service, if the action may be, or has been, investigated under the *Crime and Corruption Act 2001*
- a police officer, if the officer is liable to disciplinary action, or has been disciplined under the *Police Service Administration Act 1990* because of the action
- the Auditor-General
- a mediator at a mediation session under the *Dispute Resolution Centres Act 1990*
- a person in a capacity as a conciliator under *the Health Rights Commission Act 1991*, the repealed *Health Quality and Complaints Commission Act 2006* or the *Health Ombudsman Act 2013*
- the Information Commissioner in the performance of the Commissioner's functions under the *Right to Information Act 2009*.⁸

1.3 The committee's responsibilities regarding the Queensland Ombudsman

In addition to the oversight jurisdiction conferred by the Legislative Assembly in the Standing Orders,⁹ the Ombudsman Act provides that the committee has the following functions:

- to monitor and review the performance by the Ombudsman of the Ombudsman's functions under the Ombudsman Act
- to report to the Legislative Assembly on any matter concerning the Ombudsman, the Ombudsman's functions or the performance of the Ombudsman's functions that the committee considers should be drawn to the Legislative Assembly's attention
- to examine each annual report of the Office tabled in the Legislative Assembly under the Act and, if appropriate, to comment on any aspect of the report
- to report to the Legislative Assembly any changes to the functions, structures and procedures of the Office the committee considers desirable for the more effective operation of the Ombudsman Act
- any other functions conferred on the committee by the Ombudsman Act.¹⁰

⁵ Ombudsman Act, s 13.

⁶ Ombudsman Act, s 14.

⁷ Ombudsman Act, s 16(1).

⁸ Ombudsman Act, s 16(2)(a)-(h). Also note there are other exceptions under the *Government Owned Corporations Act 1993*.

⁹ Standing Orders, s 194A; schedule 6.

¹⁰ Ombudsman Act, s 89.

1.4 Strategic review of the Queensland Ombudsman

The Ombudsman Act provides that a strategic review of the Office must be conducted at least every 7 years and that the review must include a review of the Ombudsman's functions and the performance of the functions to assess whether they are being performed economically, effectively and efficiently.¹¹ The most recent strategic review was completed in January 2018 by Ms Simone Webbe (strategic review). The strategic review report was tabled on 15 February 2018 (strategic review report).

By June 2020, the Ombudsman, Mr Anthony Reilly, advised that all of the 72 recommendations in the strategic review report had been 'attended to', and were 'considered as complete or ongoing'.¹²

The next strategic review of the Office is due to commence by January 2025.¹³

1.5 The committee's process

In conducting its oversight of the Ombudsman, the committee undertook the following activities:

- examined the 2019-20 Annual Report (Annual Report) (see section 2 of this report)
- held a public hearing on 14 June 2021 (public hearing) (see section 3 of this report).

The following representatives from the Office participated in the public hearing:

- Mr Anthony Reilly, Queensland Ombudsman
- Mrs Angela Pyke, Deputy Ombudsman
- Ms Leanne Robertson, Director, Corporate Services Unit
- Ms Louise Rosemann, Principal Advisor, Public Interest Disclosures.

A copy of the transcript of the public hearing is available on the committee's webpage.¹⁴

During the reporting period, it came to the committee's attention that there is no formally established procedure for dealing with service delivery complaints that are made to the Ombudsman's office about the Ombudsman and the Deputy Ombudsman directly.

In acquitting its responsibilities under section 89 of the Act, the committee sought advice as to the appropriate or best practice procedure for the handling of complaints made about the Ombudsman and the Deputy Ombudsman by clients of the office who are dissatisfied with the handling of their matters.

Having considered that advice the committee wrote to the Ombudsman outlining its view as to the best practice model for addressing complaints made against senior staff of the office.

The committee will revisit the issue in 2022 in accordance with its ongoing oversight jurisdiction.

¹¹ Ombudsman Act, s 83(2) and (9).

¹² Anthony Reilly, Queensland Ombudsman, public hearing transcript, Brisbane, 14 June 2021, p 3.

¹³ Under section 83 of the *Ombudsman Act 2001*, the 7 year period between reviews is counted from the date the report of the previous strategic review is given to the Premier and the Ombudsman, or, if the parliamentary committee with oversight responsibilities for the Ombudsman reported on the previous report and made recommendations, from the date of the Premier's response to those recommendations up to when the reviewer is appointed to undertake the latest strategic review. The parliamentary committee did not make any recommendations in its report on the previous strategic review report.

¹⁴ <https://www.parliament.qld.gov.au/Work-of-Committees/Committees/Committee-Details?cid=170>

2 Examination of Annual Report 2019-20

The Queensland Ombudsman's Annual Report for the 2019-20 financial year was tabled on 24 September 2020.

The Annual Report meets the reporting obligations under the *Financial Accountability Act 2009* and the annual report requirements for Queensland Government agencies.¹⁵

The Office reports on a range of performance/service measures in the report, including in relation to:

- investigating complaints
- improving decision-making through engagement, training and advice
- public interest disclosure oversight
- financial performance and staffing.

2.1 Ombudsman's report

The Ombudsman acknowledged the 'great contribution to improving fairness in public administration' made by former Ombudsman Phil Clarke, who retired as Queensland Ombudsman on 9 July 2020 after almost 10 years in the role.¹⁶ Noting that the Annual Report related to 'work done on his [the former Ombudsman's] watch',¹⁷ the Ombudsman reported that for the 2019-20 financial year:

- 89% of all investigations were completed within targeted timeframes
- the Office undertook a review of its processes and practices to ensure compliance with its obligations under the *Human Rights Act 2019*
- 48% of all investigative recommendations achieved systemic improvements and 100% of recommendations were accepted by agencies.
- reported public interest disclosures (PIDs) increased by 53%¹⁸
- the Office received 'very good, and improved'¹⁹ outcomes in the 2019 Working for Queensland survey.²⁰

In relation to the Office's response to the COVID-19 pandemic in 2019-20, the Ombudsman reported:

- the Office's business continuity plan (BCP) was active between 18 March and 3 July 2020
- the Office 'moved quickly'²¹ to a mostly remote workforce model, supporting working from home where possible
- the Office experienced 'relatively little impact'²² on its assessment and investigation service during the BCP activation

¹⁵ Annual Report, p i.

¹⁶ Annual Report, p 1.

¹⁷ Annual Report, p 1.

¹⁸ The Annual Report states the increase 'appears to be linked to the changes to the definition of corrupt conduct' as a result of amendments to the *Crime and Corruption Act 2001* in effect from 1 March 2019. See Annual Report, p 2.

¹⁹ Annual Report, p 2.

²⁰ Annual Report, pp 1-2.

²¹ Annual Report, p 2.

²² Annual Report, p 2.

- training delivery fell by 38%, compared with 2018-19, as it was suspended during the operation of the BCP.²³

2.2 Public contact with the Office

A total of 11,074 Queenslanders contacted the Office for advice, assistance or complaint resolution (down 5% on the previous year).²⁴ Of the 11,074 contacts received in 2019-20:

- 7,207 were complaints (an 8% decrease on the previous year)
- 2,677 were matters outside jurisdiction (a 6% decrease on the previous year).
- 1,040 were general enquiries seeking information and/or assistance (up 20% on the previous year)
- 150 were requests for a review of a previous decision by the Ombudsman (up 14% on the previous year).²⁵

The Annual Report noted that a further 16,443 people were directed from the online complaint form to the Office's 'outside of jurisdiction' webpage.²⁶

2.3 Complaints received

Of the 7,207 complaints received:

- 69% were about state government agencies, including departments and statutory authorities (4,987 complaints)
- 26% were about local councils (1,859 complaints)
- 5% were about public universities (352 complaints)
- 9 complaints were about other or unknown entities.²⁷

The Annual Report noted that the 'spread of complaints across agency types was almost the same as the previous two years'.²⁸

2.3.1 Complaints received about state agencies (including departments and statutory authorities)

The total number of complaints received about state agencies in 2019-20, including departments and statutory authorities, was 4,987.²⁹ The departments receiving the most complaints were Queensland Corrective Services (981 complaints), the Department of Child Safety, Youth and Women (609 complaints), the Department of Housing and Public Works (516 complaints) and the Department of Education (512 complaints).³⁰

In relation to complaints about statutory agencies, the largest number of complaints was in relation to the Queensland Building and Construction Commission, which at 196 complaints was a decrease from the 213 complaints recorded in 2018-19. Among the other statutory agencies that were key targets of complaints, the number of complaints received in relation to the Public Trustee increased from 183 complaints in 2018-19 to 194 complaints in 2019-20. Complaints about Legal Aid Queensland decreased from 140 complaints in 2018-19 to 132 complaints in 2019-20 and complaints about the

²³ Annual Report, p 2.

²⁴ Annual Report, p 6.

²⁵ Annual Report, p 6.

²⁶ Annual Report, p 7.

²⁷ Annual Report, pp 7, 34-36.

²⁸ Annual Report, p 7.

²⁹ Annual Report, pp 7, 34-35.

³⁰ Annual Report, p 35.

Office of the Health Ombudsman decreased from 110 complaints in 2018-19 to 105 complaints in 2019-20. Complaints about WorkCover increased from 98 complaints in 2018-19 to 115 complaints in 2019-20, and complaints about TAFE Queensland decreased from 114 in 2018-19 to 86 in 2019-20.³¹

2.3.2 Complaints received about local councils

In 2019-20, there were 1,859 complaints about local councils, which was a decrease on the previous year's total of 2,047 complaints.³²

The categories of local council services attracting the highest number of complaints in 2019-20 included:

- development and building controls (252 complaints, a decrease from 298 complaints in 2018-19)
- environmental management (231 complaints, a decrease from 260 complaints in 2018-19)
- laws and enforcement (199 complaints, a decrease from 288 complaints in 2018-19)
- conduct (168 complaints, an increase on 67 complaints in 2018-19)
- rates and valuations (158 complaints, a decrease from 223 complaints in 2018-19)
- roads (115 complaints, a decrease from 164 complaints in 2018-19).³³

2.3.3 Complaints received about universities

The Office received 352 complaints about public universities in 2019-20.³⁴ The Annual Report noted the main areas of complaints were about grades, assessment and examinations; fees, refunds, charges and written agreements; attendance, progress, course duration and course content; and enrolment.³⁵

The Annual Report noted that the Office updated the categories used to record complaints about public universities and, accordingly, the categories of complaints in 2019-20 are not comparable with previous years.

2.3.4 Complaint processing times and referrals

In 2019-20, the Office finalised 7,204 complaints, which was a decrease of 8% when compared to 2018-19.³⁶ The average age of a complaint when closed at preliminary assessment was 2.2 days (exceeding the target of 10 days and down 33% from 3.3 days in the previous year).³⁷ The average age when closed after investigation was 49 days.³⁸ Notably, 85% of complaints were finalised within 10 days of receipt, 94% were finalised within 30 days and 100% of complaints were finalised within 12 months.³⁹

The Office can also directly refer a premature complaint to an agency with the consent of the complainant. In 2019-20, the Office directly referred 798 premature complaints (compared with 1,224

³¹ Annual Report, p 34.

³² Annual Report, p 36.

³³ Annual Report, p 36.

³⁴ Annual Report, p 36.

³⁵ Annual Report, p 36.

³⁶ Annual Report, p 9.

³⁷ Annual Report, pp 3, 9; Queensland Ombudsman, *Annual Report 2018-19*, p 15.

³⁸ Annual Report, p 9.

³⁹ Annual Report, p 9.

directly referred in 2018-19).⁴⁰ The Annual Report attributed the 35% reduction from 2018-19 'to improved practices in the assessment of matters suitable for direct referral'.⁴¹

2.3.5 Human rights complaints received

In 2019-20, the Office received 779 cases that were assessed as involving a human rights element.⁴² The Annual Report noted that over half of all complaints were from the following categories:

- protection of families and children
- humane treatment when deprived of liberty
- property rights.⁴³

2.4 Investigations finalised

In 2019-20, 1,140 investigations were finalised, a 9% decrease on the previous year.⁴⁴ The Annual Report noted that this figure included 27 investigations initiated by the Ombudsman.⁴⁵

As a result of investigations, the Office recorded 173 total or partial rectifications⁴⁶ in 2019-20. The proportion of investigations resulting in rectifications was 15% of investigations finalised, which met the Office's performance target and was the same rectification rate as in 2018-19.⁴⁷

The Annual Report noted that in 2019-20, the Office made 244 investigative recommendations to agencies compared with 250 in 2018-19.⁴⁸ Of the 244 recommendations made by the Office to agencies, 214 were agreed actions.⁴⁹

The Annual Report noted that, as in 2018-19, 100% of recommendations were accepted by agencies in 2019-20 (where a response had been received from the agency by 30 June 2020).⁵⁰

2.5 Oversighting the management of child safety complaints

The Annual Report noted that the Office continues 'to monitor child safety complaints as part of its continued oversight role'.⁵¹ The Office received 440 complaints relating to child safety matters in 2019-20 compared with 513 complaints received in 2018-19.⁵² The Annual Report noted that '75 were assessed as involving harm or risk of harm to a child or young person'. This represented a decrease from 135 involving harm or risk of harm in 2018-19.⁵³ The Office conducted investigations in relation to 26 complaints.⁵⁴

⁴⁰ Annual Report, p 9; Queensland Ombudsman, *Annual Report 2018-19*, p 15.

⁴¹ Annual Report, p 9.

⁴² Annual Report, p 7.

⁴³ Annual Report, p 7.

⁴⁴ Annual Report, pp 11.

⁴⁵ Annual Report, p 11.

⁴⁶ A rectification is achieved in an investigation by formally finding an administrative error or, more commonly, by negotiating a resolution with the agency. See Annual Report, p 11.

⁴⁷ Annual Report, p 11; Queensland Ombudsman, *Annual Report 2018-19*, p 17.

⁴⁸ Annual Report, p 11.

⁴⁹ Annual Report, p 11.

⁵⁰ Annual Report, p 12.

⁵¹ Annual Report, p 12.

⁵² Annual Report, p 12.

⁵³ Annual Report, p 12.

⁵⁴ Annual Report, p 12.

2.6 Feedback from stakeholders

The Annual Report advised that the Office's annual client survey, which measures client satisfaction with assessments and investigations, was not conducted in 2019-20 'as the Office is conducting a review of the methodology for this measure'.⁵⁵ However, the Office continued to seek feedback on its training services, with the Annual Report noting that 'results showed that 92% of participants reported training improved their decision-making capability'.⁵⁶

2.7 Training

In 2019-20, the Office delivered a total of 151 training sessions, including 71 in regional areas, to 2,785 public sector officers. This compares with 4,540 public sector officers participating in the 247 sessions conducted in the previous year, with the Annual Report attributing the 38% reduction to the impact of the COVID-19 pandemic.⁵⁷

Topics of training included principles of decision-making, complaints management, public sector ethics, managing unreasonable conduct, practical ethics for local government and PID management.

During the public hearing, the Ombudsman informed the committee that 'given the increased reliance on the internet during the pandemic', training resources, such as the good decision-making guide, were made freely available on the Office's website 'rather than limit distribution to those enrolled in training'.⁵⁸

2.8 Public interest disclosures

The Office has oversight responsibilities for the *Public Interest Disclosure Act 2010* (PID Act), including monitoring the management of PIDs, reviewing the way public sector agencies deal with PIDs and performing an educational and advisory role.⁵⁹

A total of 1,744 PIDs were reported to the Office in 2019-20, which was an increase of 52.8% on the previous year.⁶⁰ The Annual Report noted that the increase was driven 'by a significant rise in the number of corrupt conduct PIDs reported' (1,525 in 2019-20 compared with 826 in 2018-19).⁶¹ Further, the Annual Report observes that, although 'the number of PIDs reported increased significantly, the proportion reported by employees was relatively stable'.⁶²

The Annual Report noted the significant reduction in PIDs of 'substantial and specific danger to the health or safety of a person with a disability', of which there were 58, representing a more than halving of the 133 recorded in the previous year.⁶³

The Annual Report advised that 527 people participated in PID training workshops and an additional 705 people attended awareness sessions.⁶⁴ Following the gazetting of new PID standards in 2019, the Office significantly expanded its provision of PID training to agencies, which was redesigned for live

⁵⁵ Annual Report, p 23.

⁵⁶ Annual Report, p 14.

⁵⁷ Annual Report, pp 2, 14; Queensland Ombudsman, *Annual Report 2018-19*, p 31.

⁵⁸ Public hearing transcript, Brisbane, 14 June 2021, p 3.

⁵⁹ Annual Report, p 27.

⁶⁰ Annual Report, p 27. The increase was driven by a significant rise in the number of corrupt conduct PIDs reported, and the Office considered the increase to likely be the consequence of changes to the definition of corrupt conduct as a result of amendments to the *Crime and Corruption Act 2001* in effect from 1 March 2019.

⁶¹ Annual Report, p 27.

⁶² Annual Report, p 27.

⁶³ Annual Report, p 27. The Office considered the decrease to be the consequence of the transition in disability service provision from the Department of Communities, Disability Services and Seniors to the National Disability Insurance Scheme (NDIS), and the consequent shift in complaints jurisdiction to the NDIS Quality and Safeguards Commission.

⁶⁴ Annual Report, p 28.

online delivery due to the impact of the COVID-19 pandemic.⁶⁵ The Office also commenced work in 2019-20 to develop a new online self-assessment audit tool to allow agencies to evaluate their compliance with the PID standards and enable the Office to capture monitoring data from across the public sector.⁶⁶

2.9 Public reports

During 2019-20, the Office published 2 major reports:⁶⁷

- [*The Forensic Disability Service report: An investigation into the detention of people at the Forensic Disability Service*](#)

This report, tabled on 22 August 2019, identified ‘significant problems in the care of people detained at the facility’.⁶⁸ The report made 15 recommendations jointly to the Director of Forensic Disability (DFD) and the Director-General of the Department of Communities, Disability Services and Seniors ‘for improved decision-making and administrative fairness’.⁶⁹ In response to the draft report, ‘the department submitted that it had a limited role in the responsibility for the operation of the FDS’ (Forensic Disability Service). The DFD rejected adverse comments regarding the performance of her role,⁷⁰ and, in essence, responded that ‘the Department is and has been responsible for the operation of the FDS’.⁷¹ The Ombudsman summarised the department’s and the DFD’s responses to the report as indicating ‘that there is no shared understanding about the role of the Department and the role of the Director’.⁷²

- [*Management of child safety complaints – second report: An investigation into the management of child safety complaints within the Department of Child Safety, Youth and Women*](#)

This report, tabled on 2 April 2020, follows the Ombudsman’s 2016 investigation into the management of child safety complaints by the then Department of Communities, Child Safety and Disability Services. The second report focused on how the Department of Child Safety, Youth and Women manages child safety complaints and its interaction with the Office of the Public Guardian. The report made 22 recommendations under section 40 of the Ombudsman Act for improvement of the processes for the handling of the child safety complaints.⁷³ Advising that the current department was created through a machinery of government change on 12 December 2017, the department noted the Ombudsman’s observations and recommendations, and undertook to implement a number of specified changes to various

⁶⁵ Public hearing transcript, Brisbane, 14 June 2021, p 3.

⁶⁶ Public hearing transcript, Brisbane, 14 June 2021, p 3.

⁶⁷ These reports are available online from the Queensland Ombudsman’s website: www.ombudsman.qld.gov.au/improve-public-administration/investigative-reports-and-casebooks/investigative-reports

⁶⁸ Queensland Ombudsman, *Annual Report 2019-20*, p 1.

⁶⁹ Queensland Ombudsman, ‘Ombudsman presents *The Forensic Disability Service report*’, media release, 23 August 2019, www.ombudsman.qld.gov.au/about-us/media/the-forensic-disability-service-report; Queensland Ombudsman, *The Forensic Disability Service report: An investigation into the detention of people at the Forensic Disability Service*, August 2019, pp ix-xix.

⁷⁰ Queensland Ombudsman, *The Forensic Disability Service report: An investigation into the detention of people at the Forensic Disability Service*, August 2019, p 147.

⁷¹ Queensland Ombudsman, *The Forensic Disability Service report: An investigation into the detention of people at the Forensic Disability Service*, August 2019, p 139.

⁷² Queensland Ombudsman, *The Forensic Disability Service report: An investigation into the detention of people at the Forensic Disability Service*, August 2019, pp 139, 140, 141.

⁷³ Queensland Ombudsman, *Management of child safety complaints – second report: An investigation into the management of child safety complaints within the Department of Child Safety, Youth and Women*, March 2020, pp 82-84.

reporting methods.⁷⁴ At the committee's public oversight hearing, the Ombudsman informed the committee that the recommendations of the report had been implemented.⁷⁵

2.10 Reaching out to agencies and the community

To promote the role of the Queensland Ombudsman and increase community knowledge and understanding about the Office, the Office produces a range of resources, including newsletters and brochures.⁷⁶

During 2019-20, the Office's engagement strategies included:

- targeted distribution of resources to public and community sector organisations
- information sessions
- visiting regional centres.⁷⁷

Officers visited 31 regional centres as part of the Office's Regional Services Program, conducting training sessions, local council complaints management system (CMS) reviews, correctional centre visits, public sector agency information sessions and Queensland Complaints Landscape (QCL) presentations.⁷⁸ Fifteen community organisations participated in the QCL workshops.⁷⁹

2.11 Online services and accessibility

The Office maintained the increased number of users visiting the Office's website that was reported in 2018-19, with only a marginal reduction in visitation of 1%.⁸⁰ The website is designed for a range of devices, with 38% of website visitors using mobile phones or tablets.⁸¹

In 2019-20, 74,051 visitors accessed the Office's out of jurisdiction information webpages, an increase of 20%.⁸²

To assist members of the deaf community who access the Office's website, the website provides a series of videos that translate a selection of pages into Auslan. The website also offers the BrowseAloud tool for people requiring online reading support both in English and in languages other than English. Additionally, the Annual Report advises that the Office is a certified National Relay Service organisation, which is a phone service for people who are deaf or have a hearing or speech impairment.⁸³

During 2019-20, the Office released two videos on its YouTube channel:

- *Queensland complaints landscape for community organisations*
- *Complaints, human rights and PIDs – what every councillor needs to know to help people navigate the complaints landscape in Queensland.*

⁷⁴ Queensland Ombudsman, *Management of child safety complaints – second report: An investigation into the management of child safety complaints within the Department of Child Safety, Youth and Women*, March 2020, p 77.

⁷⁵ Public hearing transcript, Brisbane, 14 June 2021, p 2.

⁷⁶ Annual Report, p 15

⁷⁷ Annual Report, p 15.

⁷⁸ Annual Report, p 15.

⁷⁹ Annual Report, p 15.

⁸⁰ Annual Report, p 15.

⁸¹ Annual Report, p 16.

⁸² Annual Report, p 16.

⁸³ Annual Report, p 16.

2.12 Staffing

The Office is funded for 63 full-time equivalent staff (FTEs). As at 30 June 2020, 63 officers were employed on a full-time, part-time, or casual basis, equating to 57.9 FTEs.⁸⁴ Of those that work at the office, 73% are women, 14% identified as having a disability, and 5% identified as having a language other than English as their first language.⁸⁵

The Office showed improved outcomes in the 2019 Working for Queensland survey as compared with its previous, 2017 survey results, including in relation to measures of:

- engagement (up 13% on 2017)
- organisational leadership (up 17% on 2017)
- innovation (up 14% on 2017).⁸⁶

2.13 Financial performance

The budget for the Office for 2019-20 was \$9.446 million.⁸⁷ Actual expenses came in \$337,000 under budget (\$9.154 million, a 0.3% decrease from 2018-19).⁸⁸ The annual report stated that \$377,000 in unused appropriation is to be repaid in 2020-21.⁸⁹

⁸⁴ Annual Report, p 16.

⁸⁵ Annual Report, p 21.

⁸⁶ Annual Report, p 22.

⁸⁷ Annual Report, p 26.

⁸⁸ Annual Report, p 26.

⁸⁹ Annual Report, p 26. In 2020, deferred appropriation payable predominantly resulted from deferrals of \$257,000 of expenditure on supplies and services and \$120,000 unused appropriation from savings in employment costs. In 2019, lapsed appropriation revenue predominantly resulted from the realignment of funding to future years to meet the operational needs of the Office.

3 Oversight public hearing

In his opening statement at the public hearing, the Ombudsman provided an update on the Office's performance during 2019-20. The Ombudsman also outlined steps taken by the Office to manage the impact of the COVID-19 pandemic on the operations of the Office.

The Ombudsman explained that the lower number of contacts, complaints and investigations set out in the 2019-20 annual report was 'due mainly to a drop in demand for our services from April to May 2020', when 'contacts dropped from an average of around 1,000 a month to only 555 in April 2020 and 751 in May 2020'.⁹⁰ However, the Ombudsman advised that since March 2020, 'complaints about Queensland Health increased as a result of COVID related complaints ... largely about border closures and/or quarantine arrangements'.⁹¹

Stating that the COVID-19 pandemic necessitated a brief pause in the Office's visits to youth detention centres, the Ombudsman advised those visits resumed in late 2020.⁹² Further, the Ombudsman informed the committee that 'to address the operational risks created by COVID', the Office implemented a new virtual visits program using video contact with adult prisoners and staff at adult correctional centres.⁹³

Turning to the Office's proactive administrative improvement program, including training services, the Ombudsman explained the COVID-19 pandemic had 'dealt a blow to the program after April 2020 due to the limitations on travel and holding large gatherings'.⁹⁴ The Ombudsman advised that the Office 'regrouped in the second half of 2020 and developed a new virtual training program, delivered by webinar and through tools such as Zoom and Microsoft Teams'.⁹⁵

The Ombudsman informed the committee of the Office's new publication, *Casebook 2020*, which contains information about 24 of the Office's investigation outcomes.⁹⁶ Noting that the casebook is a useful resource 'to support our administrative improvement role by being available to public servants ... to see the sorts of problems their decisions can get into',⁹⁷ the Ombudsman hopes that the annual casebook also 'increases the transparency of the office's investigation work for the public'.⁹⁸

Questions from the committee during the public hearing focused on:

- client satisfaction with the Office
- visits to and oversight of prisons and youth detention centres
- efficiencies achieved by the Office in performing preliminary assessments
- implementation of the Ombudsman's recommendations by agencies
- proactive measures, including training, inquiries and investigations.⁹⁹

⁹⁰ Public hearing transcript, Brisbane, 14 June 2021, p 2.

⁹¹ Public hearing transcript, Brisbane, 14 June 2021, p 2.

⁹² Public hearing transcript, Brisbane, 14 June 2021, p 2.

⁹³ Public hearing transcript, Brisbane, 14 June 2021, p 2.

⁹⁴ Public hearing transcript, Brisbane, 14 June 2021, p 2.

⁹⁵ Public hearing transcript, Brisbane, 14 June 2021, p 2.

⁹⁶ Public hearing transcript, Brisbane, 14 June 2021, p 2.

⁹⁷ Public hearing transcript, Brisbane, 14 June 2021, p 2.

⁹⁸ Public hearing transcript, Brisbane, 14 June 2021, p 2.

⁹⁹ Public hearing transcript, Brisbane, 14 June 2021, pp 3-10.

4 Committee comment

The committee congratulates the Ombudsman and his staff on their performance in 2019-20, especially in light of the continuing challenges presented by the COVID-19 pandemic.

The committee acknowledges the proactive measures taken by the Office to foster good decision making across the public sector and commends the Ombudsman and his team for the important contribution they make to Queensland's good governance.

The committee appreciates the assistance and information provided by the Office's management and staff who have helped to facilitate the committee's oversight role.

Recommendation

The committee recommends that the House notes the contents of this report.

5 Statement of Reservation



Report No 17, 57th Parliament – Oversight of the Office of the Queensland Ombudsman

Statement of Reservation

Sandy Bolton MP – Member for Noosa

Whilst I am supportive of Report No 17 - Oversight of the Office of the Queensland Ombudsman, there are concerns relating to the process that underpins these oversight reports and a lack of transparency associated with the process.

One of the Committee's stated functions is to report to the Legislative Assembly on any matter concerning statutory bodies such as the Ombudsman or Information Commissioner, their functions or performance, that the Committee considers should be drawn to its attention including improvements to procedures.

During the public oversight hearing I raised the issue of general service complaints about the Ombudsman and what options are available to an oversight committee to deal with such complaints. In my view this issue remains unresolved.

Being bound by confidentiality clauses as to Committee deliberations as per Standing Order 211, I am unable to further elaborate on the details in this Statement of Reservation.

This speaks to the issue that I have raised numerous times, in Statements of Reservation, in speeches in the House, at Panel appearances, and in official correspondence to Government and Parliament. The issue being that the Committee system which was improved in 2011 through instrumental changes that were recommended by the Committee Review System Committee, still falls short of a fair, workable, transparent and accountable system.

This review was designed to ensure maximum accountability of government processes, provide fulsome scrutiny of proposed legislation and importantly, change the culture of Committees that were reported as at times secretive and unaccountable.





In my most recent speech to Parliament, I noted the ongoing issues with lack of resourcing, lack of bi-partisanship, and an imbedded bias that appoints government chairs who have a casting vote. This was not part of the reviewed system or its recommendations, in fact the reverse.

The use of casting votes can be utilised to block transparency, including the publication of minutes from the private hearings of Committees which would ensure that any issues or recommended improvements discovered in the operations are aired.

This lack of transparency due to the confidentiality provisions allows for less than full disclosure of committee deliberations and decisions, which could see our independent public institutions have unreported and unresolved issues.

Importantly, it does little to ensure that members of the public can have confidence in the parliamentary oversight role of independent bodies who investigate government decisions on behalf of everyday Queenslanders.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Sandy Bolton'.

SANDY BOLTON MP
Member for Noosa

