

Office of the Training Ombudsman

1 July 2012 to 31 October 2012 Final Report

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Public availability

Electronic copies of this report are available at www.dete.qld.gov.au. Hard copies of the report may be downloaded from that address.

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11 September 2013

The Honourable John-Paul Langbroek MP
Minister for Education, Training and Employment
PO Box 15033
CITY EAST QLD 4002

Dear Minister

I am pleased to present the Final Report for the Office of the Training Ombudsman for the period from 1 July 2012 to 31 October 2012.

In line with the Queensland Government's policy to reduce costs, and following a review of service delivery and support services by the Department of Education, Training and Employment, the Office of the Training Ombudsman was abolished from 1 November 2012.

The functions of the Office of the Training Ombudsman have been reintegrated within the appeals and complaints processes of the Department. Specific complaints previously dealt with by the Training Ombudsman may also be addressed through the Australian Skills Quality Authority (ASQA), Queensland Industrial Relations Commission (QIRC), Queensland Civil and Administrative Tribunal (QCAT) and individual government departments.

The report outlines the activities and achievements of the former Office of the Training Ombudsman for the period stated.

I certify that this Final Report complies with:

- the prescribed requirements of the *Financial Accountability Act 2009* and the *Financial and Performance Management Standard 2009*, and
- the detailed requirements set out in the *Annual Report requirements for Queensland Government Agencies*.

Yours sincerely



DR JIM WATTERSTON
Director-General

Profile

Office of the Training Ombudsman

The Office of the Training Ombudsman was originally established in September 2000, with the introduction of the *Training and Employment Act 2000*, and continued under the *Vocational Education, Training and Employment Act 2000* (the VETE Act).

On 2 May 2006 the Governor in Council appointed Mr Peter Ruhanen as the Training Ombudsman and he served in that capacity until 31 October 2012 when the Office of the Training Ombudsman was abolished.

The Office of the Training Ombudsman was a statutory body established to provide a free, impartial and independent service to review and resolve, where possible, complaints by apprentices, trainees, employers and other interested people, about the apprenticeship and traineeship system in Queensland. Many matters brought to the attention of the Training Ombudsman were resolved through mediation and consultation processes, rather than formal investigations.

The Training Ombudsman reported on reviewed matters to the Minister for Education, Training and Employment and to Skills Queensland (an independent body established under the *Vocational Education and Training (Commonwealth Powers) Act 2012*).

Functions and powers

The functions of the Training Ombudsman were provided by Section 134 (now repealed) of the VETE Act. Section 134 provided:

134 Functions of ombudsman

(1) The ombudsman has the following functions—

- (a) to receive and send to Skills Queensland a complaint by a party to a training contract about any of the following matters (referrable matters)—

- (i) the training being delivered to the apprentice or trainee under the contract;
 - (ii) the adequacy of the facilities, range of work and supervision provided by the employer under the contract;
 - (iii) the circumstances in which the contract was signed or subsequently amended or cancelled;
 - (iv) the failure of the employer to register the contract within the time required under section 53;
 - (v) the failure of the apprentice or trainee to make progress under the training plan for the apprentice or trainee;
 - (vi) Skills Queensland's exercise of a power or performance of a function under chapter 3, part 1;
- (b) if asked by a party to a training contract, to review Skills Queensland's investigation of a complaint about a referrable matter arising under the contract;
 - (c) to make recommendations to Skills Queensland about a matter arising from the ombudsman's review of a matter under paragraph (b);
 - (d) if asked by a young person in the compulsory participation phase, or a parent of the young person, to review Skills Queensland's decision about an employment exemption for the young person;
 - (e) to refer a matter coming to the ombudsman's attention to another entity having jurisdiction to deal with the matter.
- (2) Despite subsection (1)(a), the ombudsman may receive and send to Skills Queensland a complaint about a referrable matter from any person if the ombudsman decides the person has a sufficient interest in the matter.

- (3) The ombudsman has power to do all things necessary or convenient to be done for, or in connection with, the performance of his or her functions.

The role of the Training Ombudsman also included:

- on application by a young person in the compulsory participation phase, or a parent of the young person, reviewing an adverse decision about an employment exemption for the young person; and
- investigations under the User Choice 2010–2015 policy.

Limitations in dealing with complaints

Section 137 (now repealed) of the VETE Act provided the limitations in dealing with complaints.

137 Ombudsman to refuse to deal with matters before industrial commission

The ombudsman must refuse to deal with, or refuse to continue to deal with, a complaint if—

- (a) an appeal is started in the industrial commission about the referable matter that gave rise to the complaint; or
- (b) the industrial commission makes a decision on an appeal about the referable matter that gave rise to the complaint.

Reporting on findings

Section 141 (now repealed) of the VETE Act required that the training ombudsman report his findings.

141 Ombudsman to report findings

- (1) As soon as practicable after completing a review of Skills Queensland's investigation of a complaint about a referable matter, the ombudsman must—
- (a) give the complainant signed notice of the findings of the review; and
- (b) give Skills Queensland and the Minister a signed report of the review that includes the findings.

While not having the power to overturn decisions of the Department of Education, Training and Employment (DETE), the Training Ombudsman could, if appropriate, make recommendations to DETE requesting a decision be reviewed or rescinded.

Glossary

DETE	Department of Education, Training and Employment
QCAT	Queensland Civil and Administrative Tribunal
QIRC	Queensland Industrial Relations Commission
SAT	School-based apprenticeship or traineeship

Highlights

In 2012, the Training Ombudsman assisted employers, apprentices and trainees in the resolution of disputes involving their training contracts and supporting the successful completion of apprenticeships and traineeships.

These activities supported the government's investment in the skills and training of Queenslanders, and contributed to ensuring accountability in government.

Summary of matters at issue

During the period from 1 July to 31 October 2012 the Office of the Training Ombudsman dealt with seven complaints by parties to apprenticeship or traineeship training contracts. These complaints related to the disputed achievement of competencies (2), bullying and harassment (1), disputed cancellation of training contracts (3), and lack of pastoral support by a registered training organisation (1). All complaints have subsequently been addressed and closed by DETE.

Review of school-based apprentices and trainees

The Training Ombudsman was a member of the School-based Apprenticeships and Traineeships (SATs) Advisory Committee, a forum which brings together government departments responsible for vocational education and training, education sectors, and employer and union organisations to consider major policy and operational issues affecting school-based apprentices and trainees in Queensland, and recommends policy or program changes to DETE or Skills Queensland.

In 2011, the Training Ombudsman commenced a review of school-based traineeships in the sport and recreation industry, excluding racing. The review led to the suspension of government funding (through the User Choice program) for sport and recreation school-based traineeships from 2 July 2012 until 10 August 2012, at which time DETE was satisfied that the intent of SATs was being observed.

Community activities

During the period from 1 July to 31 October 2012 the Training Ombudsman attended a range of events involving apprentices and trainees, including promotional and awards functions and presentations throughout Queensland.

Risk management and internal audit

The Training Ombudsman's primary role was to investigate complaints received from employers, apprentices, trainees and other parties with an interest in Queensland's apprenticeship and traineeship system. The Office of the Training Ombudsman was a small agency and potential risks and subsequent costs were generally low. Financial transactions for the Office of the Training Ombudsman have been included in the DETE financial statements. The Office did not have a risk management committee or internal audit function.

Code of conduct

The Office of the Training Ombudsman operated under the *Public Sector Ethics Act 1994* and Code of Conduct for the Queensland Public Service.

The Training Ombudsman also adhered to the Code of Ethics of the Ombudsman Association.

Public Sector Renewal Program

Office of the Training Ombudsman abolished

In 2009, the former Queensland Government commissioned a wide-ranging, independent review of state government boards, committees and statutory authorities. The Brokering Balance Report, known as the Weller Review, assessed 459 organisations to establish which organisations were still necessary and which could be abolished. The Report recommended dismantling the Office of the Training Ombudsman in Queensland.

In 2012, all Queensland Government departments were instructed to re-examine service delivery and support services with a view to reducing costs.

As a result of this review, amendments were made to the VETE Act to abolish the Office of the Training Ombudsman. The operations of the Office of the Training Ombudsman ceased from 1 November 2012.

Appeal and complaint options subsequent to closure of the Office of the Training Ombudsman

DETE has reintegrated the functions of the former Training Ombudsman within the department's appeals and complaints processes.

The services provided to the general public by the Training Ombudsman were additional to the appeals and complaints processes in place through the Queensland Industrial Relations Commission (QIRC), Queensland Civil and Administrative Tribunal (QCAT), Australian Skills Quality Authority (ASQA) and individual departments.

From 1 November 2012, requests for investigations or reviews of decisions previously dealt with by the Training Ombudsman have been dealt with through these bodies.

Related entities

There were no other related bodies formed or acquired by this office.

Recordkeeping

Records of the Office of the Training Ombudsman have been archived in accordance with the Queensland Government Information Security Classification Framework.

Additional information

The Training Ombudsman did not travel overseas or use any consultancies during the period covered by this report.

Office of the Training Ombudsman

Financial statement

Financial transactions for the Office of the Training Ombudsman are included in the financial statements of the Department of Education, Training and Employment.

Separate financial statements are not prepared for the Office of the Training Ombudsman.

A handwritten signature in black ink, appearing to read "Dr. Watterston". The signature is stylized with a large initial "D" and a long horizontal stroke extending to the right.

DR JIM WATTERSTON
Director-General
Department of Education, Training and Employment

